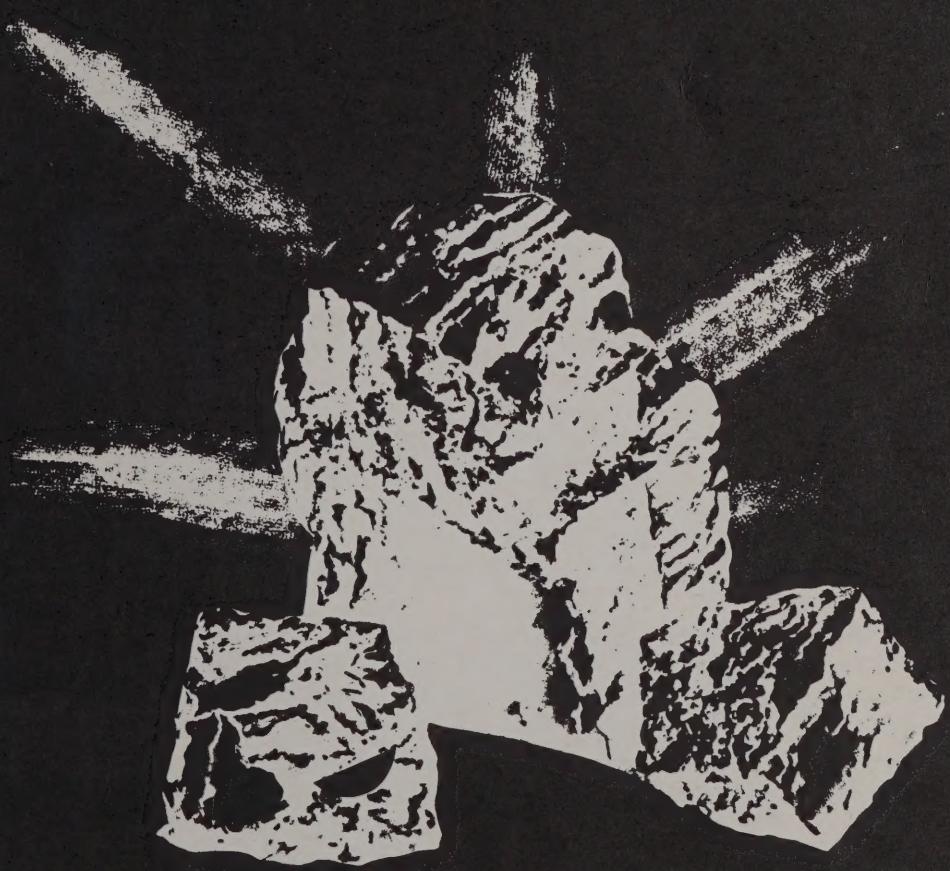


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FEDERAL COAL MANAGEMENT REPORT



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FISCAL YEAR
1986



THE SECRETARY OF THE INTERIOR
WASHINGTON

June 3, 1987

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am pleased to present to you the Federal Coal Management Report, Fiscal Year 1986, as required by the Federal Coal Leasing Amendments Act of 1976 (Public Law 94-377, Section 8).

This report describes the activities carried out under the Federal coal management program of the Department of the Interior during Fiscal Year 1986. Of particular significance in this report is the discussion of the decisions I made on February 21, 1986, to adopt key elements of the Commission on Fair Market Value and Office of Technology Assessment reports, and to resume activities of the Federal coal management program. The program modifications with which I concurred are listed in detail in Table 1 of this report. On May 23, 1986, the Department published final rules implementing those recommendations and options of the Commission on Fair Market Value and Office of Technology Assessment that could only be effected through regulatory changes.

Fiscal Year 1986 marked the first full year in which the Department had a formal national policy and implementing guidelines for coal inspection and enforcement and production verification. Also, in Fiscal Year 1986, the Solid Leasable Minerals System (SLMS), a computerized data base system, was implemented to track all aspects of solid mineral lease operations.

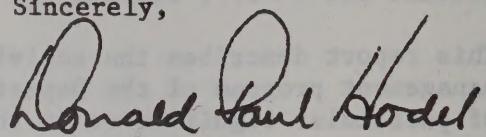
In addition to the statements found in the enclosed report, I am pleased to inform you that on March 9, 1987, the Bureau of Land Management completed the McKinley County fee coal exchange. Under that exchange, both parties enhanced their holdings with the Department receiving 6,263 acres of land containing 68.2 million tons of more valuable coal, in exchange for transferring 4,890 acres of land containing 77.5 million tons of less valuable coal to Cerillos Land Company. In addition, Cerillos agreed to transfer all of their interests in reserved mineral estates on 4,890 acres in the Chaco Cultural National Historical Park and outlying archaeological protection sites to the United States.

In April of 1987, the Department received two decisions which ratified our authority to readjust coal lease royalty rates to statutory and regulatory levels. These two decisions, FMC Wyoming Corp. v. Hodel, No. 84-2175 (10th Cir.), and Coastal States Energy Corp. v. Hodel, No. 86-1301 (10th Cir.), will enable the Department to substantially reduce a logjam of protests and appeals that have significantly hindered the management of Federal coal leases in the West. These protests and appeals have delayed the collections of royalties which can now proceed.

Statistically, the report features details of Federal coal production, royalties, total lease acreages and recoverable reserves, and presentations of important leasing actions that transpired during Fiscal Year 1986.

I trust you will find the report informative.

Sincerely,



DONALD PAUL HODEL

Enclosure

cc: Senate Committee on Energy and Natural Resources

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Federal Coal Management Report

Fiscal Year 1986

Annual report of the Secretary of the Interior under
Section 8 of the Federal Coal Leasing Amendments Act of 1976
(P.L. 94-377)

PREFACE

The annual Federal Coal Management Report, mandated by the Federal Coal Leasing Amendments Act of 1976, and the tenth to be transmitted to Congress, focuses on the implementation of the Federal coal management program during Fiscal Year (FY) 1986.

This report is divided into five major parts: (1) Introduction summarizing the status of Federal coal lands and current leases and applications; (2) Changes in the Federal Coal Management Program briefly describing the changes to the Federal coal management program that were implemented in FY 1986; (3) Management, Supervision, and Enforcement in FY 1986 presenting the FY 1986 responsibilities and activities of the Bureau of Land Management (BLM), Minerals Management Service (MMS), Geological Survey (GS), Office of Surface Mining Reclamation and Enforcement (OSMRE), Fish and Wildlife Service (FWS), Department of Agriculture/Forest Service (FS), and Department of Justice (DOJ); (4) Litigation briefly discussing litigation concerning Federal coal activities; and (5) Major Issues for 1987, as mandated, providing a brief description of current issues concerning the Federal coal program. There are also two appendices.

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I. INTRODUCTION

The Federal Government owns about one-third of the Nation's coal resources. Coal resources owned and administered by the Federal government are located on approximately 75.6 million acres of land principally in the Western States. Western Federal lands contain as much as 60 percent of the total western coal reserve base. An additional 20 percent of the coal in the West is under the influence of the Federal Government by virtue of the trust responsibility for Indian lands, and where State and private coal reserves are combined with Federal leases to form logical mining units.

In FY 1986, 163.9 million tons of Federal coal were mined (see Figure 1 for regional distribution), a slight increase of 1 percent from the 162.2 million tons of Federal coal mined in FY 1985. This FY 1986 production accounted for approximately 18.5 percent of the total U.S. production, down 0.4 percent from the 18.9 percent of the total U.S. production in FY 1985. Total U.S. production in FY 1986 was approximately 887 million tons, as compared to 863 million tons in FY 1985. In FY 1986, total reported royalties on Federal coal leases were 101.1 million dollars, a 3.3 percent decrease from the total reported royalties of 104.6 million dollars in FY 1985.

As of September 30, 1986, there were 596 Federal coal leases covering 882,900 acres and containing approximately 16.5 billion tons of recoverable reserves. As of the end of FY 1986, the BLM was in the process of reviewing the recoverable reserve determinations for all Federal coal leases. A revised reserve estimate will be available in the FY 1987 report.

Thirty-one Federal coal leases were relinquished during FY 1986 covering 43,464 acres and containing approximately 1 billion tons of recoverable reserves. Five of the leases were relinquished because the State of Utah exercised its right to select the lands that contained these Federal coal leases as indemnity selections provided for under 43 CFR 2621. An estimated 70 additional Federal coal leases may be accepted for relinquishment in FY 1987, based on leases that have been filed for relinquishment in the BLM State offices. These 70 leases contain approximately 90,000 acres and over 1 billion tons of recoverable reserves.

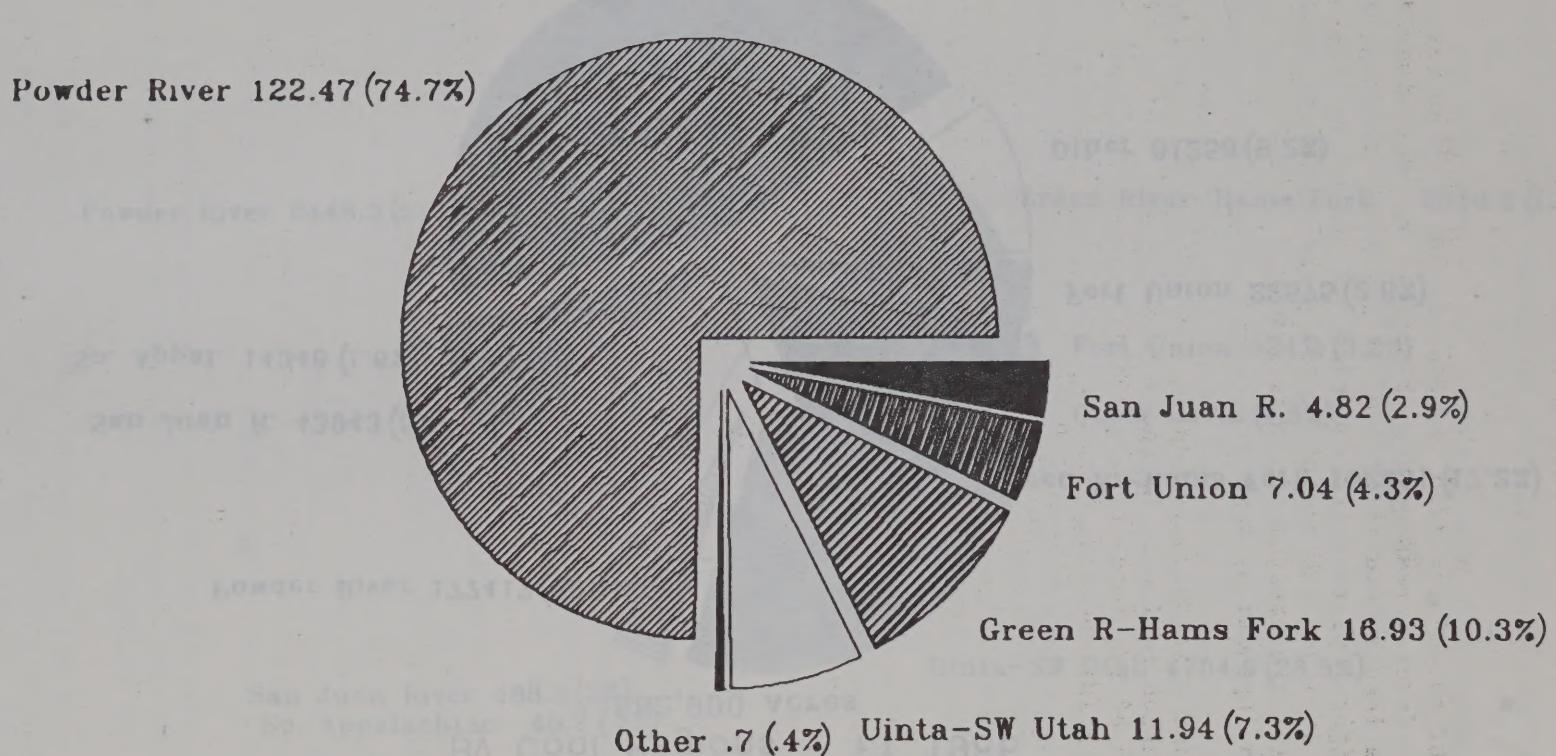
During FY 1986, 7 new Federal coal leases were issued comprising a total of 15,065 acres containing approximately 124.07 million tons of recoverable reserves. Six of the 7 new leases issued in FY 1986 were processed in response to applications for lease sales. Four of these sales had been held in FY 1985. One lease was issued in FY 1986 to Peabody Coal Co. on October 1, 1985, as part of the Northern Cheyenne lease exchange settlement.

In FY 1986, 6 Federal coal lease tracts were sold covering 6,180 acres containing approximately 33.9 million tons of recoverable reserves (Table 2). Lease sales brought \$2.54 million in bonus bids. Four of the leases sold in FY 1986 had not yet been issued by the end of the fiscal year. As of September 30, 1986, 113 preference right lease applications (PRLAs) remain in processing.

From FY 1982 through FY 1986, 80 Federal coal leases were issued and 55 leases were sold. Several reasons why 25 more leases were issued than sold are: many of the leases sold in FY 1981 and FY 1982 were not issued until the following fiscal years after the sale; 10 preference right leases were issued between FY 1982 and the end of FY 1986; and there were several lease exchanges and partial lease assignments that resulted in new leases. See Tables A-10 and A-11 in Appendix A, page 57.

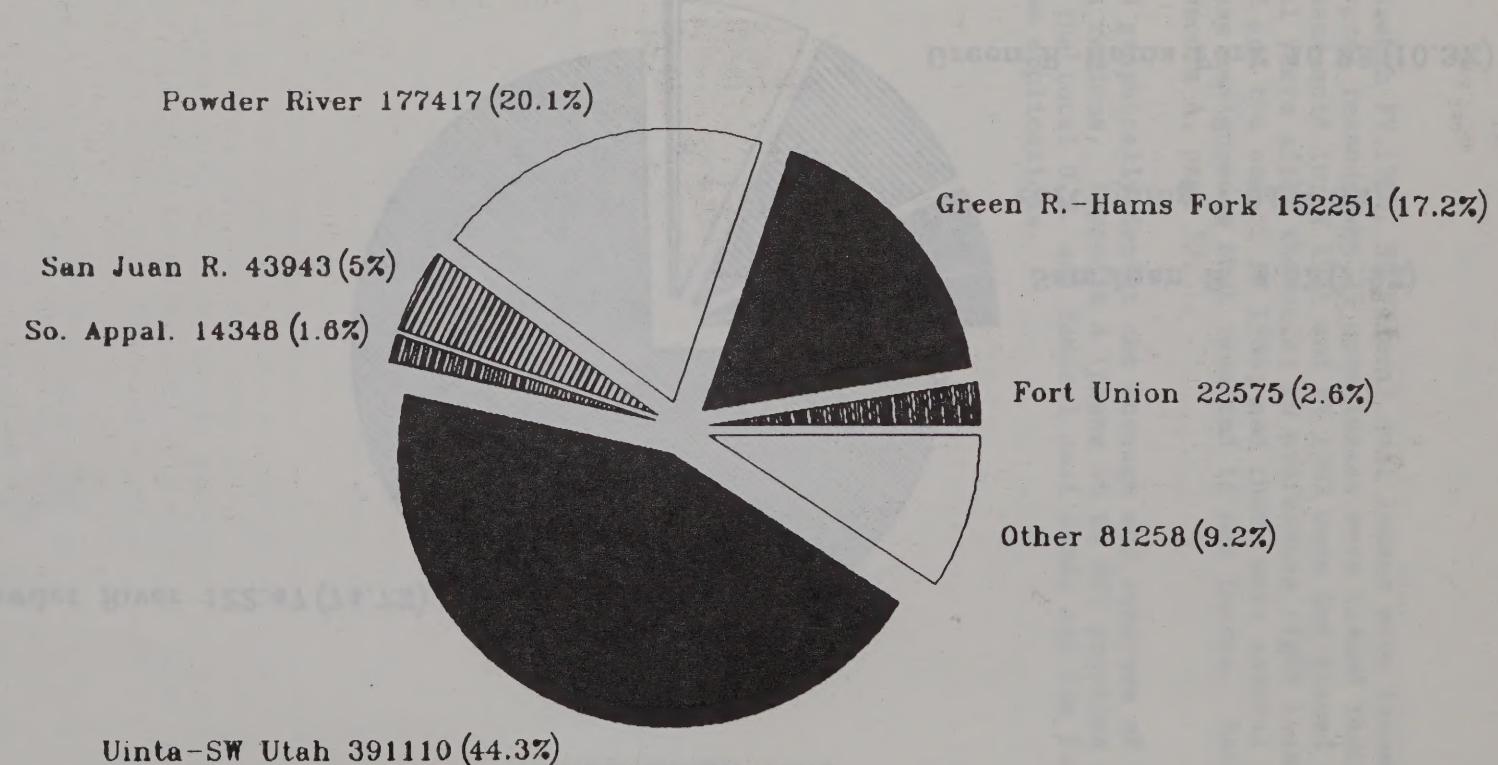
Figures 2 and 3 graphically depict the acreage and reserves of the Federal coal production regions. Appendix A (pages 46 to 68) provides a detailed description of the total U.S. and Federal coal lands and the Federal coal leases and lease applications.

Figure 1
Federal Coal Leases - FY 86 Production
By Coal Regions
163.90 Million Tons



Source: Minerals Management Service, Royalty Management Office, Dec. 1986

Figure 2
Federal Coal Leases - Acreage
By Coal Regions - FY 1986
882,900 Acres

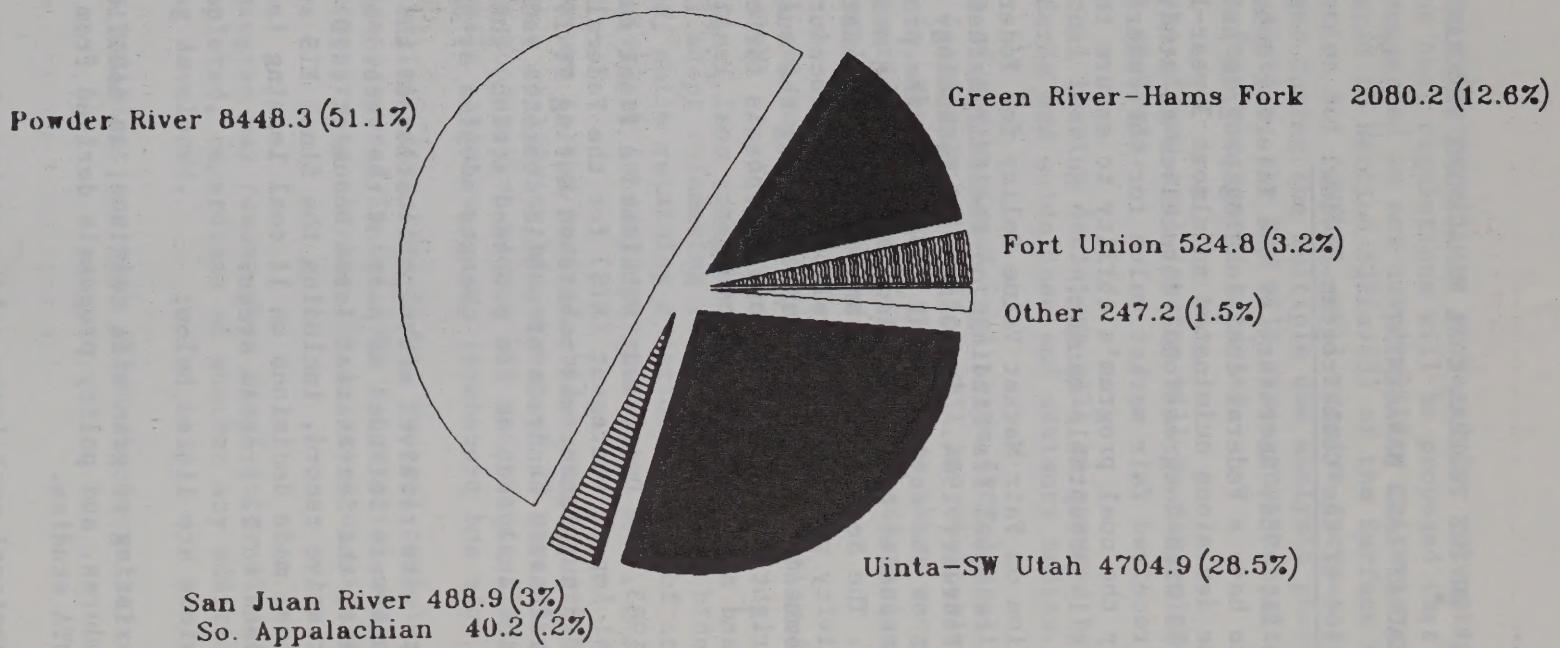


Source: Solid Leasable Minerals System, Sept. 30, 1986

Figure 3

Federal Coal Leases - Recoverable Reserves By Coal Regions - FY 1986

16,534.5 Million Tons



Source: Solid Leasable Minerals System, Sept. 30, 1986

II. CHANGES IN THE FEDERAL COAL MANAGEMENT PROGRAM

A. BUREAU OF LAND MANAGEMENT

1. Completion of the Coal Program Review.

On February 21, 1986, Secretary of the Interior Donald P. Hodel made his decisions to have a Federal coal leasing program and what type of program to have. These decisions culminated an almost 3-year-long review process, which began in 1983 with Congressional directives to study whether or not the Department received fair market value for the Federal coal that it had leased and to study the coal program's ability to ensure that coal was leased in an environmentally acceptable manner.

The Commission on Fair Market Value Policy for Federal Coal Leasing (Linowes Commission) released its findings on the fair market value aspects of the program in February 1984. The Office of Technology Assessment (OTA) released its findings on the environmental aspects of the program in May 1984. The Secretary responded to the findings by accepting most of the recommendations and options. The Secretary also announced a suspension of regional coal leasing activity pending the development of procedures incorporating the groups' recommendations and options. During the suspension, the processing of preference right lease applications, proposals for coal lease and fee title exchanges, and applications for emergency coal leasing were allowed to continue.

In October 1985, the Department published a final supplement to the 1979 environmental impact statement (EIS) for the Federal coal management program. (The draft EIS supplement was published during FY 1985.) The final EIS supplement addressed hundreds of public comments received on the draft EIS supplement and analyzed, as its proposed action, the 1979 coal program as modified by rule and procedural changes adopted or proposed since 1979.

Four comments were received after publication of the final EIS supplement. These comments were included as part of the record of decision on the final EIS supplement, the Secretarial Issue Document (SID) (January 1986). Based on the administrative record, including the final EIS supplement and the SID, Secretary Hodel made decisions on 11 coal leasing issues and concurred with recommendations in 12 program areas.

The 11 decisions are listed below:

- The existing program will continue, as modified by rulemaking, procedures, and policy proposals derived from the Linowes Commission and OTA studies.
- New regional coal lease sale activity planning will begin only in those areas where there are completed resource management plans (RMPs); however, rounds of activity planning that were suspended during the program review may proceed under existing land use plans. Emergency leasing, leasing by application, and PRLA processing may proceed based on management framework plan (MFP) amendments.

- No new unsuitability criteria will be proposed for rulemaking; instead, modifications to the coal regulations will be proposed that specify that the criteria suggested as new unsuitability criteria as well as those resources listed in Section 522(a)(3) of the Surface Mining Control and Reclamation Act (SMCRA), will receive increased emphasis from the land manager during the multiple use analysis phase of land use planning. In addition, the BLM will strengthen consultation with affected Federal surface management agencies.
- The need for and pace of new coal leasing will be determined by using a three-tiered market analysis.
- Adequate data for coal leasing decisions will be assured by using both data adequacy standards and guidelines and advisory bodies.
- The recommendations of the regional coal teams (RCTs) dealing with leasing levels and lease sale scheduling will be rebuttable presumptions; that is, the Secretary will accept these recommendations unless there are overriding national interest considerations or conflicting Governors' recommendations.
- The Department will not support the granting of authority for negotiated lease sales.
- The Department will adopt rulemaking requiring minimum bids to be set on a regional basis, while retaining a national floor of at least \$100 per acre or its equivalent in cents-per-ton.
- To qualify bids for use in the postsale bid averaging process, the Department will use a qualifying bid screen of 25 percent of the presale estimate in conjunction with a bid acceptance floor of 75 percent of the presale estimate.
- The Department will limit revisions in the Federal coal leasing regulations to those proposed in the 1984 Secretarial responses and to those revisions necessary to clarify the existing unsuitability criteria.
- The coal leasing program may resume when final internal agency procedures are completed, regardless of whether any additional rulemaking is being developed.

Table 1 lists the program modifications with which the Secretary concurred.

Table 1. Program Modifications with Which
the Secretary Concurred.

| <u>Program Area</u> | <u>Program Component</u> |
|---------------------|--|
| Land Use Planning | <p>BLM will prepare guidance to clarify resource management plans.</p> <p>The four coal screens (coal development potential, unsuitability criteria, multiple-use assessment, and surface owner consultation) will be applied sequentially except in certain circumstances.</p> <p>BLM will issue rules, procedures, and guidelines for applying the coal unsuitability criteria.</p> <p>BLM will invite the public to comment on BLM's application of the coal unsuitability criteria in its request for comments on the draft resource management plan EIS.</p> <p>BLM will reinstate the threshold analysis concept in the coal regulations.</p> <p>BLM will work with other agencies to refine the threshold concept and issue guidelines on its application.</p> <p>BLM will issue, for use by the RCT and the public, a summary of the decisions made in each land use plan that serves as the basis for coal leasing decisions.</p> |
| Market Analysis | <p>Activity planning will begin with a review of a summary of land use plans and a long-range market analysis.</p> <p>The coal expected to be mined from coal PRLAs will be considered in establishing leasing levels.</p> <p>The Department will work with the RCTs and the Federal-State Coal Advisory Board to develop long-range leasing schedules and appraisal methodologies.</p> <p>BLM will evaluate market conditions prior to RCT sale schedule recommendations.</p> <p>BLM will reevaluate market conditions prior to later sales in phased sales.</p> |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|-------------------------|---|
| Market Analysis (cont.) | RCT recommendations for, and the Secretary's decisions on, leasing levels and sale schedules will be based on market conditions and environmental factors. The RCT and Secretary will consider all resource management objectives and evaluate them against public policy in establishing leasing levels. |
| Data Adequacy | BLM will take steps to improve coordination with other Federal agencies, State and local governments, and private organizations. BLM will investigate other data sources by: <ul style="list-style-type: none">o forming a BLM/OSM working group to access OSM mine plan data; ando continuing to develop comprehensive automated data bases. BLM will request OSMRE to assist in data evaluation. |
| | The RCT's function will be expanded to include a review of the adequacy of available information and the quality of the analyses in land use plans. |
| | BLM will establish guidance to ensure that tract profiles contain an assessment of data adequacy and that this assessment in the tract profiles is used in ranking tracts. |
| | BLM will conduct needed drilling to ensure adequate data for presale evaluation of each tract. |
| | The RCTs will identify to the Secretary tracts that were analyzed during regional activity planning but are not ready for sale because coal resource data are inadequate to determine fair market value. |
| Tract Delineation | BLM will use guidelines and procedures for screening expressions of leasing interest. BLM will use the definitions of new mine, mine expansion/extension and bypass tract to distinguish captive single-bidder tracts from potentially competitive tracts. |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|---------------------------|--|
| Tract Delineation (cont.) | <p>The Department will continue to offer a diversity in quantity and quality of coal tracts.</p> <p>The tract delineation team will have economic evaluation expertise.</p> <p>BLM will consider all factors that may enhance competition in delineating and selecting potential coal lease tracts.</p> <p>BLM will consider and offer for lease, where appropriate, alternative configurations of the same parcel of land.</p> |
| RCT/Advisory Board Role | <p>The Federal-State Coal Advisory Board and RCT charters will enhance the role of the RCTs by increasing the information available to the teams, particularly regarding market conditions and land use planning; improving public participation; and involving State personnel in preparing material for RCT consideration.</p> <p>The BLM State Director for the State primarily involved will be designated as the RCT chairman to ensure more sensitivity to the concerns in the region.</p> <p>The lead State Director will appoint three science advisors to assist the RCT in reviewing data adequacy.</p> <p>BLM will appoint a Washington Office representative to each RCT as a nonvoting member.</p> <p>BLM will encourage RCTs to use working groups that include all segments within the community.</p> <p>BLM will report projected long-range coal market conditions to the Advisory Board.</p> <p>RCTs will make recommendations on long-range schedules based on constraints of budget and data needs and on market conditions to the Advisory Board, which will make recommendations to the Secretary.</p> |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|--------------------------------|---|
| RCT/Advisory Board Role(cont.) | <p>The Advisory Board and RCTs will review the Department's long-range schedule at various points in activity planning.</p> <p>As a link between land use planning and activity planning, the RCTs will use existing land use plans as a base to identify issues to be addressed and data to be gathered as part of activity planning.</p> <p>RCTs will consider any threshold analysis performed during land use planning in its review of the cumulative effects of coal leasing.</p> <p>RCTs will consider a number of factors in developing sale schedule recommendations that include phased sales.</p> <p>All RCT recommendations will be carefully documented, will describe the factors considered in reaching the recommendation, and will contain relevant information.</p> <p>The RCTs will identify one leasing alternative in each regional EIS as the proposed action, rather than as the preferred alternative, to avoid the perception that a premature leasing decision has been made.</p> |
| Public Participation | <p>BLM will prepare calendars to identify points for public participation in regional activity planning.</p> <p>BLM will solicit public comment at each major decision point. RCTs will consider using newsletters to keep the public informed of regional activity planning issues and schedules.</p> <p>BLM will ask the public to provide coal and other resource information at the onset of land use planning.</p> <p>BLM will provide a minimum of 30 days for public review of land use and activity planning documents.</p> |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|------------------------------|---|
| Public Participation (cont.) | BLM will make the land use planning summary and the long-range market analysis to be used by the RCT in the initial meeting available for public review at least 45 days before the meeting. |
| Appraisal | BLM will document and make its coal evaluation methodologies available to the public through an appraisal handbook and will continue to review appraisal procedures outlined in the handbook. |
| | BLM has evaluated its economic evaluation model, including the use of Monte Carlo techniques, and compared the Coal Resource Economic Value model against similar models. |
| | BLM has eliminated the "small business" tax adjustment from the appraisal methodology. |
| | BLM will treat stripping ratio and production rate as separate and independent variables in the appraisal process. |
| | BLM will appraise captive tracts based on their value to the adjacent operation. |
| | BLM will specify qualifications for mineral appraisal personnel. |
| | The sale panel will examine the tract appraisals after the lease sales to assure compliance with procedures and determine fair market value. |
| | BLM will use industry bids in decisions concerning bid acceptance/rejection. The bids will be used for multiple-bid tracts and for establishing comparison values for single-bid tracts. |
| PRLAs | BLM will prepare coal PRLA status reports on a quarterly basis. |
| | RCTs will receive copies of the PRLA status reports and will consider the amount of PRLA coal reserves in making regional coal leasing recommendations. |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|------------------------|--|
| PRLAs (cont.) | BLM will complete processing PRLAs within 2 years of resumption of processing (except for those PRLAs within wilderness study areas). |
| Sale Procedures | The Department will hold smaller, more frequent coal lease sales. |
| | BLM will identify and pursue opportunities for using intertract bidding, using guidelines to define circumstances in which intertract bidding will be considered, after the Department receives the advice of the RCTs and the affected State Governors. |
| | BLM will seek cooperative leasing opportunities by contacting private landowners to attract interest in cooperative leasing. |
| | BLM will continue to use bonus bidding with fixed royalties. |
| | BLM will evaluate, after the coal lease sale in which it is used, the impact of expressing minimum bids in cents-per-ton and allowing bids to be expressed in that manner and will consider whether it should continue to be used. |
| | BLM will require the presence on the sale panel of a Deputy State Director for Minerals, a WO representative, and experts in geology, mining engineering and mineral appraisal who meet minimum qualifications and who are approved by the Director. |
| Administrative Actions | Responsible BLM officials will ensure that the security procedures are reviewed prior to each lease sale, and BLM will update its guidance to its field offices to ensure the security of confidential data prior to holding lease sales. |
| | BLM will provide the necessary training in advance of each sale to ensure that employees are aware of security requirements and have the knowledge necessary to implement them. |
| | BLM will strengthen its economic evaluation capability and fully integrate the expertise gained through the MMS merger. |

Table 1. (continued)

| <u>Program Area</u> | <u>Program Component</u> |
|--------------------------------|--|
| Administrative Actions (cont.) | <p>The Department will continue to seek to ensure a well-paid, stable workforce with extensive regional experience.</p> <p>BLM will centralize policy development and guidance in a Minerals Policy Analysis and Program Coordination staff based in Washington, D.C.</p> <p>BLM will establish four regional evaluation teams to conduct coal tract appraisals.</p> <p>BLM has requested the Inspector General to conduct periodic audits of program activities.</p> <p>BLM will integrate oversight functions into periodic review required by OMB Bulletin A-123.</p> |
| Exchanges | <p>BLM will thoroughly review its land exchange manual to ensure that there are clear guidelines on the land and lease exchange process.</p> <p>BLM will amend its existing land exchange policy statement to say specifically that environmental concerns will be seriously considered.</p> <p>BLM will request the Department of Justice to review all proposed fee title exchanges involving coal.</p> |
| Lease Transfers | <p>BLM will specify, by means of guidance, the financial information to be required before lease assignments or other lease transfers will be approved.</p> |
| Delayed Bid Opening | <p>The Department will keep knowledge of amounts bid on single-bid tracts from the evaluation team until the team completes its reappraisal of the single-bid tracts using the multiple-bid tract results. This will be accomplished by delaying the opening and announcement of the bids on the single-bid tracts until after completion of the reappraisal.</p> |

2. Status of Leasing Program Changes.

During the fiscal year, significant progress was made in implementing the Secretary's decisions. On May 23, 1986, the Department published a final rulemaking implementing those Linowes Commission and OTA options that could only be effected through regulatory change. The revisions include:

- Improving the effectiveness of public participation by mandating a minimum public comment period of 30 days for all preleasing actions on which public comment is sought.
- Reinstating the threshold concept in the coal management regulations.
- Making RCT recommendations on leasing levels and sale schedules binding on the Secretary unless there are overriding national interest considerations or a conflicting Governor's recommendation, i.e., the recommendations are "rebuttable presumptions."
- Formally beginning activity planning with an RCT meeting to review land use planning data and decisions and the long-range market analysis.
- Changing the basis upon which minimum bids are set from national to regional, while retaining a national floor of \$100 per acre or its equivalent in cents-per-ton.

During FY 1986, work began on drafting revisions to the regulations concerning the unsuitability criteria.

Two draft manuals and a draft handbook, giving detailed interim procedures for competitive coal leasing under the revised coal leasing program, were issued. This guidance provides RCTs and BLM employees with the procedures necessary to carry out their responsibilities under the Federal competitive leasing program. Issuance of the final manuals and handbook is expected in FY 1987.

A draft coal property appraisal handbook was revised and issued as final guidance in May 1986. This handbook is to be used as guidance for all future coal property appraisals for lease sales, fee and lease exchanges, conveyances, and lease modifications.

Final guidelines on the types of financial and other information that should be submitted by those seeking approval for the acquisition of Federal coal leases by transfer from another party were published on July 8, 1986. The information will be used by the Bureau in evaluating coal tracts being considered for lease offering and in determining whether bids received for those coal leases constitute fair market value.

3. Federal-State Cooperation.

The principal mechanism for achieving cooperation between the Department and the coal States is the Federal-State Coal Advisory Board, which is the national umbrella advisory group for the regional coal teams (RCTs). As a result of revisions to the Federal coal leasing program, the RCTs received increased responsibilities. These responsibilities are or will be reflected in the individual RCT charters.

A renewed charter for the Federal-State Coal Advisory Board was filed with Congress and the Library of Congress on October 3, 1986. Charters for the Green River-Hams Fork and Powder River Regional Coal Teams were filed on March 27, 1986. Charters for the other RCTs are expected to be filed during FY 1987.

III. MANAGEMENT, SUPERVISION, AND ENFORCEMENT

The BLM, MMS, GS, OSMRE, and FWS carried out a number of the requirements of the Federal coal program in FY 1986. Additional responsibilities relating to Federal coal leasing are carried out by agencies outside the Department of the Interior (DOI), particularly by the U.S. Forest Service (FS) and the Department of Justice (DOJ).

A. BUREAU OF LAND MANAGEMENT

The BLM serves as the principal Federal agency for the leasing and management of Federal coal reserves. In its roles as coal lessor and manager, BLM coordinates with other Federal agencies and State and local governments whose responsibilities may be affected by coal-related activities and with representatives of industry and environmental groups, whose interests are affected by how coal is leased and managed.

A centerpiece of BLM's coal responsibilities is its coal operations program. Included are actions on exploration and resource recovery and protection plans, and logical mining unit (LMU) applications, and other associated operations issues, such as inspection and enforcement/production verification, readjustments, suspensions, diligence, and Section 2(a)(2)(A) lessee qualifications. The BLM is solely responsible for the verification of all production from Federal coal leases. The MMS uses this information to properly assess production royalties.

Land Use Planning

The first major step in the Federal coal leasing program is land use planning by the surface management agency. Decisions resulting from the land use planning process identify resource uses, including lands acceptable for further consideration for coal leasing. These areas are identified after reviewing all lands in a planning area using four coal screens that are integral to the planning process. These screens are listed below.

1. Areas are eliminated from coal leasing consideration if they do not have coal development potential.

2. Additional coal areas are eliminated if they are judged unsuitable for surface coal mining, using the 20 unsuitability criteria and their exceptions and exemptions found at 43 CFR 3461.

3. Additional coal areas may be eliminated on multiple-use grounds if other resource values are determined to be superior to coal.

4. Surface owner consultation may also result in the elimination of split estate lands minable by surface methods from further consideration for leasing in areas where a significant number of qualified surface owners oppose surface coal mining. Application of the unsuitability and multiple-use screens contributes to the completion of the Federal lands review required by the SMCRA.

Land use plans are generally either management framework plans (MFPs) or resource management plans (RMPs). Prior to the adoption of the 1979 rules on planning, programming, and budgeting for public land and resources (43 CFR 1600), all land use plans were MFPs. The rules now require that all new land use plans be RMPs prepared in accordance with the 1979 rules, although existing MFPs may be amended to conform to the 1979 rules under certain circumstances, rather than an RMP prepared. Information developed by BLM in the land use planning process is provided to OSMRE for the determination that the Federal Lands Review required by Section 522(b) of the SMCRA has been completed.

Regional Coal Activity Planning

Regional coal activity planning (defined in 43 CFR 3420) for coal within a Federal coal production region takes place on lands covered by completed land use plans. Regional coal activity planning involves a call for expressions of leasing interest, the establishment of leasing levels, and the delineation, ranking, selection, and scheduling of tracts for lease sale from the land identified in the land use plans as acceptable for further consideration for leasing. The RCTs play a crucial role throughout the activity planning process by guiding the leasing studies and recommending regional leasing levels and lease sale schedules to the Secretary.

A regional EIS is prepared during activity planning and is the National Environmental Policy Act (NEPA) analysis for the proposed sale. The delineated tracts that have been selected for further study in the EIS by the RCT are grouped into leasing alternatives. At least one alternative must fall within the leasing level range, and is usually selected as the proposed action in the EIS. Participation of State and local governments is actively sought during preparation of the regional EIS. Before making a final leasing decision, the Secretary consults with the Governors of the affected States, surface management agencies, the Department of Energy, and DOJ. This final decision includes whether to offer coal, and if so, how much coal to offer, which tracts to offer, when to hold the lease sale(s), and how the coal will be offered (special leasing opportunity, intertract bidding, cooperative leasing, etc.).

In response to the Linowes Commission and OTA reports, several changes in the regional activity planning process have been adopted. These proposals: (1) incorporate the use of market analyses at three points in the coal leasing process; (2) inject formal data adequacy review procedures into activity planning; and (3) allow greater Federal State Coal Advisory Board (FSCAB) participation in developing the 5-year schedule. Market analyses are used by an RCI in its decision on whether a new round of activity planning should be initiated, in its examination of and recommendations for the regional leasing level, and in its recommendations regarding the need for a sale and, if so, a lease sale schedule.

The range of leasing levels are established based on recommendations by the RCTs and will take public comments into account. The Department will establish leasing levels that promote rational leasing decisions that do not unduly dominate coal markets. The amount of preference right leasing will be considered in determining the appropriate level of future regional coal leasing.

Several data adequacy review procedures have been added throughout regional activity planning, including an RCT review of unresolved issues and data adequacy problems in land use plans, an assessment of the available data in preparing site-specific environmental analyses (tract profiles), the experimental use of science advisors to assist the RCTs in assessing data adequacy, and the identification of tracts not recommended by the RCT for lease sale because of data inadequacies. Any additional inventories or surveys to correct data inadequacies would be site-specific on tracts already delineated, rather than on the entire land use planning area.

The Department will continue to maintain a long-range (5-year) planning schedule that will be developed in consultation with the Federal-State Coal Advisory Board.

Although the Secretary's coal leasing decisions lifted the suspension on holding regional lease sales, no regional lease sales were held during FY 1986.

Lease Sales

The BLM leases coal through competitive sales using a fixed royalty - variable cash bonus bidding system. BLM prepares the paperwork necessary to offer the tracts for lease sale, holds the lease sale using sealed bidding procedures, and evaluates the high bids received to determine whether they constitute fair market value for the lease tracts. Program modifications have increased the BLM's commitment to holding smaller, more frequent lease sales, i.e., phased sales, and to using cooperative leasing opportunities where appropriate. Program modifications also revised the economic models used by BLM to estimate tract values, the basis upon which minimum bids for coal lease sales may be set, and the bid screening procedures by which the BLM sale panel evaluates bids for acceptance.

Leasing by Application

The coal leasing regulations at 43 CFR 3425 provide for an application process through which the Department will consider holding Federal coal lease sales apart from the regional leasing process. There are two types of applications, those for Federal coal located outside Federal coal production regions and those for emergency situations within Federal coal production regions. Emergency lease sales are held when the coal is needed within three years to maintain production at existing mines, to meet contractual obligations, or to prevent the bypass of Federal coal. No emergency restrictions are placed on lease applications outside Federal coal production regions; lease applications may be submitted for tracts that would support a new mining operation as well as for tracts that would support continuation of an existing operation.

Emergency leasing constituted the bulk of coal leasing activity, although two sales outside of designated regions were held. During FY 1986, 6 lease-by-application sales were held covering 6,180 acres and containing approximately 33.9 million tons of recoverable coal reserves. (See Table 2.)

Preference Right Lease Applications (PRLAs)

The Mineral Leasing Act of 1920 set up a permit-lease system for the disposition of some publicly owned minerals, including coal. Under this system an individual could apply for a prospecting permit to determine the existence and workability of coal deposits within the permit area. If the

TABLE 2

RESULTS OF LEASE-BY-APPLICATION SALES HELD DURING FY 1986

| State | Date of Sale | High Bidder | Serial No. | Acreage | Estimated Recoverable Reserves (In Mil. Tons) | Royalty Rate (Percent) | Bonus Bid (\$/Acre) |
|--------------|--------------|-------------------------|------------|--------------|--|---------------------------|------------------------|
| Colorado | 03/06/86 | Cyprus Western Coal Co. | C40672 | 1,046 | 12.320 | 12.5 | \$823.14 |
| Kentucky | 09/25/86 | Appollo Fuels Co. Inc. | ES35269 | 654 | 1.131 | 8.0 | 100.00 |
| | 09/25/86 | Cairnes Coal Co. | ES34711 | 1,090 | 3.850 | 8.0 | 100.00 |
| North Dakota | 09/25/86 | Coteau Properties Co. | M68608ND | 160 | 2.900 | 12.5 | 100.00 |
| Utah | 05/08/86 | Genwal Coal Co. | U54762 | 256 | .890 | 8.0 | 214.46 |
| Wyoming | 10/16/85 | Medicine Bow Coal Co. | W82736 | <u>2,974</u> | <u>12.790</u> | 12.5 | 481.29 |
| TOTAL | | | | 6,180 | 33.881 | | |

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986.

prospector found that coal existed in the permit area and that it was workable, i.e., that the coal existed in "commercial quantities," then that prospector filed a PRLA, which granted the individual a preference right to a lease, if the BLM confirmed the discovery of coal in commercial quantities.

The Federal Coal Leasing Amendments Act of 1976 (FCLAA) eliminated preference right leasing for Federal coal but permitted the coal PRLAs existing at the time of its enactment (August 4, 1976) to be processed. The Secretary of the Interior has no discretion to refuse issuance of a preference right lease if the applicant has discovered coal in commercial quantities. Nevertheless, the Secretary must (1) comply with the National Environmental Policy Act (NEPA), (2) develop appropriate environmental impact mitigation measures, and (3) consider the cost of those mitigation measures in determining commercial quantities.

As of September 30, 1986, there were 113 PRLAs pending (see Table 3). This number includes two PRLAs in Alaska which were conveyed during FY 1986 to an Alaska native corporation as part of a selection made under the Alaska Native Claims Settlement Act. At the end of FY 1986, the conveyance was under appeal to the Interior Board of Land Appeals (IBLA). During FY 1986, no preference right leases were issued. However, eight applications were withdrawn by the applicants. Also, twenty-two PRLAs in New Mexico, Utah, and Montana were affected by the processing ban imposed by Congress in the FY 1986 Appropriations Act for Interior and Related Agencies. These 22 PRLAs are located in BLM wilderness study areas and Forest Service Rare II Areas or are closely associated with PRLAs in such areas and could not be processed separately.

One draft EIS for PRLAs held by Consolidation Coal Company in Colorado was filed during FY 1986. Additional processing of coal PRLAs not in wilderness areas or wilderness study areas is being delayed until the Department completes negotiations with conservation groups concerned about the Department's processing procedures and NEPA compliance.

The negotiations are an outgrowth of the court's decision in NRDC v. Berklund, which required the Department, among other things, to estimate the costs of compliance with environmental mitigation measures. Based on these negotiations, the Department will be publishing a proposed rulemaking for comment and expects to resume PRLA processing in FY 1987.

Exchanges Involving Coal

The Department conducts two types of exchanges that involve the transfer of coal mineral rights. Enactment of the FCLAA removed the Department's general authority to issue coal leases noncompetitively, a revocation that has ruled out all coal lease exchanges except for those specifically legislated by Congress. Where specifically allowed or directed by law, the Department may award a new coal lease to a Federal or Indian coal lease holder in exchange for relinquishment by the lessee of an existing lease or leases. In the lease exchange statutes enacted to date, lease exchanges have been made on an equal value basis. Each lease exchange is subject to NEPA analysis before a decision is made.

The BLM may also consider fee coal exchanges under section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA) on a case-by-case basis in response to proposals from private fee coal owners. There are some instances

TABLE 3

CURRENT STATUS OF PRLAs, PRLAs WITHDRAWN DURING FY 86,
BY STATE

| State | Number Of PRLAs 10/1/85 | Acres | PRLAs Withdrawn | Number Of PRLAs | |
|------------|-------------------------------|--------------------------|--------------------|--------------------|--------------------------|
| | | | | 9/30/86 | Acres |
| Alaska | 2 <u>1</u> / | 5,120 | -- | -- | 5,120 |
| Colorado | 17 | 32,671 | 8 | 14,315 | 18,356 |
| Montana | 4 | <u>r/</u> 15,662 | -- | -- | <u>r/</u> 15,662 |
| New Mexico | 26 | 75,510 | -- | -- | 75,510 |
| Utah | 12 | 39,549 | -- | -- | 39,549 |
| Wyoming | <u>60</u> | <u>r/</u> <u>120,561</u> | -- | -- | <u>r/</u> <u>120,561</u> |
| Total | 121 | <u>r/</u> 289,073 | 8 | 14,315 | 274,758 |

r/ Revised

1/ Two PRLAs in Alaska are pending transfer to Arctic Slope Regional Corp.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986.

where BLM field officials may also identify coal land areas during land use planning as having fee coal exchange potential. The environmental impacts of proposed exchanges are studied before any exchange is completed. All section 206 exchanges must be of equal value and in the public interest.

Public Law 95-554, enacted in October 1978, authorizes the Secretary to issue coal leases on other lands in Wyoming in exchange for the relinquishment of all or portions of nine coal leases crossed by Interstate Highway I-90. The nine leases affected by the I-90 exchange are held by six lessees. One exchange was completed in FY 1982 and a second in FY 1983. In FY 1986, one additional exchange was completed and two other proposed exchanges were rejected as not being in the public interest. Both of the rejections were appealed to the IBLA. The holder of one of these leases withdrew the appeal and relinquished the affected lease in FY 1986. The other appeal had not been ruled on by the end of FY 1986. The sixth lessee for whom an exchange was authorized has not yet submitted an exchange request.

In addition to the exchanges mentioned above, the Department also continued work on the following coal exchanges under section 206 of FLPMA:

- o Teton Valley Ranch fee coal exchange. On April 1, 1986, the United States acquired approximately 354 acres in the National Elk Refuge in Wyoming for Federal coal interests on about 1,838 acres of land in the Wyoming portion of the Green River-Hams Fork Region. The United States also retained a royalty interest of 3.18 percent on the coal interests conveyed to the Teton Valley Ranch to equalize the value of the properties involved in the exchange.
- o McKinley County fee coal exchange. The United States would acquire about 6,263 acres of coal in New Mexico to consolidate its holdings in the area. It would also acquire mineral rights underlying about 4,890 acres in the Chaco Cultural National Historic Park. The Cerillos Land Company, a subsidiary of the Santa Fe Railroad, would acquire some 4,890 acres of Federal coal to consolidate its holdings in the Lee Ranch area of McKinley County. A decision on this exchange is expected in 1987.
- o Whitney Benefits Alluvial Valley Floor Exchange. This application was filed under the authority of section 510(b)(5) of the Surface Mining Control and Reclamation Act of 1977. The private coal, consisting of two tracts containing approximately 1,326 total acres, is located in the Tongue River Valley about 10 miles north of Sheridan, Wyoming. The applicant would receive Federal coal of equal value in Wyoming in exchange for its coal. The exchange is currently in litigation. At the end of FY 1986, the BLM was working with the Department of Justice to appraise the Ash Creek tract in Wyoming, a tract delineated for possible coal leasing in the Powder River Region. The Ash Creek tract is being considered for exchange for the Whitney Benefits tract.

- o Peabody Northern Cheyenne Settlement Lease. Peabody Coal Company was granted a noncompetitive Federal coal lease and a certificate of coal lease bidding rights in the amount of \$3.17 million, effective the first day of FY 1986. The lease and certificate were issued as compensation for the relinquishment of coal leases and permits on the Northern Cheyenne Reservation in Montana, as authorized by Public Law 96-401, enacted in October 1980. Public Law 96-401 authorizes the Secretary to grant compensation to holders of cancelled leases and permits on the reservation in the form of noncompetitive Federal coal leases and/or certificates of coal lease bidding rights. Peabody was required to pay fair market value for the leases, but received credit for investments made in the cancelled leases and permits, plus interest, as provided by Public Law 96-401. Since Peabody's credit exceeded the value of the lease, Peabody received the lease plus a certificate of coal lease bidding rights for the difference.

Lease Operations

The Bureau of Land Management (BLM) is responsible for ensuring that coal exploration and mining operations (which includes all activities that occur after issuance of a lease, license, or mining permit) are conducted in accordance with the Mineral Leasing Act of 1920, as amended, (MLA), and supplemented, the Mineral Leasing Act for Acquired Lands of 1947, related statutes and the implementing regulations in Title 43 of the Code of Federal Regulations (CFR) Part 3480, and various Indian leasing laws implemented in Title 25, Chapter I, of the CFR. Coal program requirements of the mineral leasing laws, including resource recovery and diligence, were significantly revised by the FCLAA. Regulations published in 1979 and 1982 further clarified coal operations responsibilities. Accordingly, the coal operations program is mandated entirely by law and regulation. These requirements provide for oversight of multi-million dollar mining operations that generated 101.1 million dollars in Federal royalties in FY 1986 directly resulting from BLM verification of production in the coal program. The BLM is also responsible for coal operations on Indian tribal and allotted lands. In addition, BLM's mandate requires oversight of intermingled Federal, Indian, and private coal ownership in the same operation. The BLM solid mineral operations program includes responsibility for lease term readjustments; exploration and resource recovery and protection plan review and approval; inspection and enforcement under the Mineral Leasing Act's requirements, their implementing regulations, and the terms and conditions of leases, licenses, and mining permits; production verification; diligent development and continued operation compliance monitoring; lessee-qualification review; logical mining unit approval; bonding; suspensions; and all other actions occurring after issuance of a lease, license, or mining permit.

Fiscal Year 1986 marked the first full year in which BLM had a formal national policy and implementing guidelines for coal and solid mineral inspection and enforcement and production verification. The policy and guidelines were published during the first quarter of FY 1985 to ensure nationally uniform procedures and their consistent nationwide application to provide clear guidance to lessees and operators on their production and royalty related responsibilities. Accordingly, each BLM field office with coal responsibilities prepared office plans which formed the foundation for their implementation of the inspection and enforcement and production verification policy and guidelines.

A major accomplishment in FY 1986 was the implementation of the Solid Leasable Minerals System (SLMS), a computerized data base that was developed to track all aspects of lease operations. All producing and non-producing leases, licenses, and mining permits, are continually monitored with SLMS data and statistics to ensure compliance with regulations and lease-term requirements and to ensure timely readjustment of the leases. Procedures, which were implemented in 1984, were continued during FY 1986 to ensure that Federal coal leases are readjusted in a timely manner to FCLAA terms and conditions.

Inspection and Enforcement

The inspection and enforcement section of the Inspection and Enforcement and Production Verification Policy and Guidelines outline: (1) recommended minimum certification requirements for personnel inspecting coal mines; (2) requirements for mine-specific inspection and enforcement plans to be submitted by BLM Field Offices; (3) minimum inspection requirements; (4) inspection and enforcement recordation requirements; and 5) the establishment of Solid Minerals Assistance Teams to ensure consistent application of the guidelines. The BLM Field Offices monitor all solid mineral operations for compliance with established requirements which include laws, regulations, orders and notices, lease terms and conditions, special stipulations and approved mine or exploration plan requirements.

The BLM's policy and guidelines will ensure: (1) resource protection, accurate production reporting, and accurate application of royalty rates; (2) proper oversight of exploration and mining operations; (3) compliance with established requirements; (4) proper protection of the environment; (5) maximum economic recovery; and (6) proper abandonment of operations.

Production Verification

A goal of the Department's lease management and royalty management program is to ensure the correct assessment and receipt of royalties due on the severance of Federal and Indian coal reserves. The BLM is solely responsible for verification of reported coal production on Federal and Indian lands.

Production verification involves onsite inspection of ongoing operations, independent calculation of production in the BLM Field Offices and reconciliation with the production and royalty reports sent by the lessee to the Minerals Management Service (MMS), Royalty Management. Discrepancies are reconciled in accordance with the irregularity/exception reporting procedures outlined in the BLM/MMS Memorandum of Understanding (MOU).

Production verification is a high priority for BLM and the significance will increase as Federal coal royalty revenues increase, due to Federal lease readjustments, from a cents-per-ton to an ad valorem basis. The production verification responsibility ensures proper assessment of royalty.

Readjustment of Lease Terms and Conditions

Under the MLA coal leases are issued for a term of 20 years, subject to the right of BLM to readjust a lease's terms and conditions at the end of its primary term of 20 years, and at the end of each 10-year period thereafter, if the lease is extended. On August 4, 1976, FCLAA was enacted. This law dramatically changed the coal program. One of the provisions of this law was the mandate to BLM to readjust Federal coal leases, that were issued prior to FCLAA, to FCLAA terms and conditions upon the first lease anniversary after FCLAA. The first coal lease readjustment after FCLAA subjects the lease to the requirements of diligent development, continued operation, the payment of royalty at the rate of 12 1/2 percent for surface mined coal and an annual rental at the rate of \$3.00 an acre. By regulation, the readjusted royalty rate for coal mined by underground methods is 8 percent.

The BLM is readjusting all pre-FCLAA leases to the requirements of FCLAA upon their first anniversary after FCLAA. The lease terms and conditions of 49 such leases were readjusted during FY 1986. Significant increases in the number of readjustments continue. The royalty impacts of this high priority BLM activity will continue to increase in proportion with the number of Federal coal leases readjusted.

Exploration Plans

The BLM receives and approves all exploration plans for unleased and leased Federal coal. Exploration plans must be consistent with the terms of the license or lease. The lessee must also satisfy the requirements contained in the regulations (43 CFR 3482.1(a)) and certain reclamation provisions. Exploration plans may be modified as exploration proceeds. These exploration operations were monitored for compliance with the terms and conditions of the license or lease, the exploration plan approval stipulations, and the requirements of the statutes and their implementing regulations.

Resource Recovery and Protection Plans

The FCLAA established the requirements that lessees submit a resource recovery and protection plan within 3 years of the time the lease becomes subject to FCLAA. Prior to the commencement of mining operations, this plan may be revised as part of the submission of the permit application package to OSMRE or the State Regulatory Authority (SRA).

The BLM receives all resource recovery and protection plans for mining operations for Federal coal and recommends a Department position regarding approval. Prior to commencement of any mining operation on Federal coal, this plan, among other documents, must be approved. It must address the MLA requirements contained in the regulations (43 CFR 3482.1(c)), must be consistent with the terms of the lease and permit, and may be modified as mining proceeds. The reclamation aspects of Federal coal mining are the responsibility of OSMRE (or the SRA if there is an approved State program and cooperative agreement).

Diligence

Section 7 of MLA requires that all leases subject to FCLAA achieve diligent development and, once diligent development has been met, maintain continued operation or pay advance royalty. Diligent development and continued operation are defined by regulation to be the production of coal in commercial quantities within time frames established in the regulations. Diligent development requires production of 1 percent of the recoverable coal reserves by the end of the 10th year after the lease becomes subject to FCLAA and continued operation requires a continuing obligation to produce 1 percent of the recoverable reserves annually. The BLM determines the recoverable coal reserves figure upon which this 1 percent amount is set. Leases not yet subject to FCLAA or the diligence provisions of 43 CFR 3483 are governed by lease-specific terms regarding minimum production or minimum royalty requirements. Enforcement of FCLAA diligence requirements is an integral part of operations activities. At the end of FY 1986, 374 of 596 Federal coal leases were subject to FCLAA requirements, and BLM operations personnel monitored FCLAA compliance for those leases. The final Section 7 of MLA Diligence Guidelines were transmitted to BLM Field Offices for implementation on December 19, 1985.

Logical Mining Units

Section 2(d) of MLA authorizes the establishment of logical mining units (LMU's). An LMU is a diligence mechanism which allows production crediting across coal lease boundaries for the purpose of meeting FCLAA diligence requirements for all Federal (non-Indian) coal leases contained in an approved, producing LMU.

The formation of an LMU is a discretionary action made at the request of a lessee, based on lease-specific production and economic factors. By statute and regulation, an LMU is an area of land in which the coal can be developed in an efficient, economic and orderly manner as a unit. An LMU may consist of one or more Federal leases and may include non-Federal lands; however, all lands must be under the control of a single operator, be developed and operated as a single operation, be contiguous, and not exceed a total of 25,000 acres. The final LMU Application and Processing Guidelines were transmitted to BLM Field Offices for implementation on September 5, 1985.

The BLM receives and approves all LMU applications. With the 1982 regulatory change, lessees have been carefully weighing the advantages and disadvantages of having their Federal coal leases included in an LMU. Advantages include provisions to allow production occurring from anywhere within the LMU to be credited toward the diligent development or continued operation requirements of any Federal coal lease within the LMU. Additionally, inclusion of a nonproducing lease, which might subject a lessee to the Section 2(a)(2)(A) of MLA prohibition in a producing LMU, will allow the lessee to continue participating in the MLA leasing program. One potential disadvantage of having a lease included in an LMU is the 40-year mine-out requirement of MLA for LMU's. During FY 1986, 7 LMU's were approved and 8 applications for LMU's were pending at the end of FY 1986. There were 25 leases included in the 7 approved LMU's, covering 67,459 acres, and containing approximately 1.8 billion tons of recoverable reserves.

Royalty Rate Reduction

Under Section 39 of the MLA, the Secretary is authorized to reduce the royalty rate for coal below the minimum specified by statute or regulation (12 1/2 percent surface mined and 8 percent underground) when it is necessary to encourage the greatest ultimate recovery and in the interest of conservation to promote development or when the lease cannot be successfully operated under the lease terms. No authority is provided for reduction of bonus royalty rate for fair market value required by 30 U.S.C. section 201(a)(1) (1982). Also royalty rate reductions will have no effect on the payment of advance royalty which is paid in lieu of continued operation under existing law. This discretionary authority has been delegated by the Secretary to BLM.

When the Federal coal management program was developed, royalty rate reduction regulations were codified at 43 CFR 3473.3-2. Subsequently, royalty rate reduction guidelines for coal leases were issued in 1980 reflecting provisions of the law, regulations, and Department policy. In August 1982, the General Accounting Office (GAO) published a report, "Need for Guidance and Controls on Royalty Rate Reductions for Federal Coal Leases," GAO/EMD - 32-86, that was critical of certain procedures and contained GAO recommendations. Subsequently, BLM published in the Federal Register (FR), Draft Revision, Royalty Reduction Guidelines for Federal Coal, Phosphate, Potassium, Sodium, Sulphur and Tar Sand Leases, 50 FR 6062, (Feb. 13, 1985). Comments received from this notice and a public meeting held on April 3, 1985, in Denver, Colorado, are being incorporated in new revised guidelines reflecting present Department policy. It is anticipated that the final guidelines will be published in the Federal Register in 1987.

During FY 1986, 8 applications for a royalty rate reduction were filed, and 18 applications were pending. Thirteen royalty rate reductions have been granted since 1980.

B. MINERALS MANAGEMENT SERVICE

The MMS responsibilities in the Federal coal program focus upon the collection of royalties, rents and bonuses from Federal coal lessees.

Federal Coal Royalties Collection

The MMS is responsible for collecting the royalty payments for Federal coal leases. During FY 1986, 163.9 million tons of Federal coal were produced and 101.1 million dollars of Federal royalties were collected on coal production valued at slightly over 2.3 billion dollars (see Tables 4 and 5). This represents a slight increase of 1 percent in production and a 3.3 percent decrease in royalty payments from FY 1985.

On public domain lands, with the exception of Alaska, 50 percent of the royalties is returned to the state treasuries, 40 percent is placed in the Federal Reclamation Fund that was established by the Reclamation Act of 1902, and 10 percent remains in the U.S. Treasury's miscellaneous receipts. Ninety percent of the royalties from Federal coal leases in Alaska are returned to the Alaska State Treasury.

The Federal royalties amounted to an average of 4.4 percent of the production value of the coal in FY 1986. The difference between this average percentage and the current statutory minimum royalty requirement of 12.5 percent for

TABLE 4

PRODUCING LEASES, PRODUCTION, PRODUCTION VALUE AND ROYALTY PAYMENTS
BY STATE: FY 1986

| State | Producing Leases Number | Producing Leases Acreage | Production in FY 1986 (Thousand Tons) | Production Value (Thousand Dollars) | Royalty Value (Thousand Dollars) |
|--------------|----------------------------|-----------------------------|--|--|-------------------------------------|
| Total | 134 | 242,822 | 163,900 | 2,321,430 | 101,145 |
| Alabama | -- | -- | -- | -- | -- |
| Colorado | 32 | 38,680 | 10,121 | 251,293 | 20,032 |
| Montana | 10 | 27,823 | 22,433 | 308,778 | 17,854 |
| New Mexico | 5 | 11,830 | 4,825 | 115,079 | 15,402 |
| North Dakota | 9 | 10,202 | 6,853 | 76,142 | 6,670 |
| Oklahoma | 2 | 6,011 | 47 | 508 | 54 |
| Utah | 41 | 55,245 | 9,480 | 267,770 | 12,326 |
| Virginia | -- | -- | -- | -- | -- |
| Washington | 1 | 241 | 654 | 13,063 | 131 |
| Wyoming | 34 | 92,790 | 109,487 | 1,288,797 | 28,676 |

NOTE: The statistics represent production and royalty reported during FY 1986 and adjustments made during FY 1986 for prior periods. The FY 1986 royalty management statistics may not represent actual production achieved in FY 1986 or the royalty accrued on that production due to adjustments for previous years. Estimated in part.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Office.

TABLE 5

PRODUCING LEASES, PRODUCTION, PRODUCTION VALUE AND ROYALTY PAYMENTS
BY REGION: FY 1986

| Region | Producing Leases Number | Producing Leases Acreage | Production in FY 1986 (Thousand Tons) | Production Value (Thousand Dollars) | Royalty Value (Thousand Dollars) |
|---------------------------|----------------------------|-----------------------------|--|--|-------------------------------------|
| Total | 134 | 242,822 | 163,900 | 2,321,430 | 101,145 |
| So. Appalachian | -- | -- | -- | -- | -- |
| Fort Union | 10 | 11,002 | 7,036 | 78,840 | 7,007 |
| Green River- Hams Fork | 29 | 45,742 | 16,930 | 388,669 | 26,108 |
| Powder River | 30 | 89,083 | 122,468 | 1,394,471 | 37,784 |
| San Juan River | 5 | 11,830 | 4,825 | 115,079 | 15,402 |
| Uinta-SW Utah | 57 | 78,913 | 11,940 | 330,801 | 14,659 |
| Other | 3 | 6,252 | 701 | 13,570 | 185 |

NOTE: The statistics represent production and royalty reported during FY 1986 and adjustments made during FY 1986 for prior periods. The FY 1986 royalty management statistics may not represent actual production achieved in FY 1986 or the royalty accrued on that production due to adjustments for previous years. Estimated in part. Data in this table are used in Figure 1, page 4.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Office.

surface-mined coal and the current regulatory minimum royalty rate of 8 percent on underground-mined coal on new and readjusted leases results from production taking place on leases issued before the conversion from a fixed cents-per-ton royalty to an ad valorem percentage royalty provision. The fixed cents-per-ton royalty lease-term provisions, which were frequently set at between 15.0 and 22.5 cents per ton, can only be changed at the time of readjustment of these lease terms.

C. GEOLOGICAL SURVEY

The major coal-related activities of the GS during FY 1986 were those of the Coal Investigations Program, National Coal Resources Data System (NCRDS), the Evolution of Sedimentary Basins Program, and the Coal Hydrology Program.

The Coal Investigations Program consists of mapping, establishment of local and regional coal-bed stratigraphic and correlation networks, and coal-quality and coal-resource characterization assessments done on regional as well as detailed local levels. Data derived from these assessments and related studies are entered into the NCRDS, a computer-based resource data system. These data are available to support the Federal coal program. The Evolution of Sedimentary Basins Program is designed to conduct basic research for an integrated approach to the prediction and assessment of energy resources in all major sedimentary basins including those containing Federal coal deposits. The Coal Hydrology Program consists of hydrologic data collection, areal studies, and research activities associated with the availability of water to support increased coal development and the impacts of such development on the hydrology. A description of these FY 1986 activities is presented in this section.

Coal Investigations Program

Regional Coal-Resource and Coal-Quality Characterization Activities -

Regional coal-resource and coal-quality characterization activities provide critical information on the quality, quantity, and accessibility of coal for development and include baseline geologic information needed to reduce adverse environmental effects resulting from coal utilization. Coal quantity and quality characterization shows the distribution and continuity of the coal resources as well as the variations in heating value, impurities, moisture, ash content, and trace element concentrations. Data derived from these studies are compiled into regional maps for areas of priority interest for Federal coal lease sales and scientific information needs.

In FY 1986, regional geologic studies and coal resource characterizations were underway in all major coal basins west of the 100th Meridian and in the Appalachian Province. In addition, 20 State geologic agencies were cooperatively supported by the GS for the appraisal of their coal deposits.

In support of the Federal coal program, emphasis in FY 1986 was placed on completion of coal-geology, engineering, and hazards studies for 10 regional maps of priority areas in the western Federal coal regions. Coal quality studies included lignite in Louisiana, Missouri, and North Dakota; subbituminous coal in Wyoming, New Mexico, Colorado, and Montana; and bituminous coal in Colorado and Utah.

Topical Reports - Numerous topical reports and maps on research activities that are supportive of the work of the coal program have been prepared and published by the GS. During FY 1986, 50 reports on topical investigations supportive of the program were prepared.

National Coal Resources Data System - In FY 1986, new data entry of approximately 50,000 stratigraphic records and 250 chemical analysis records was accomplished. The largest contribution came from cooperative programs with 20 State geologic agencies. Several State agencies completed coal resource assessment studies for selected areas through remote access to the NCRDS data base and software. An inventory of existing data was completed and software was acquired to improve the ability of the system to provide geologic and geostatistic models of the quality, quantity, and framework of coal deposits.

Evolution of Sedimentary Basins Program

The Evolution of Sedimentary Basins Program was implemented during FY 1985 in six major basins -- Central Appalachian, Anadarko, Powder River, Uinta/Piceance, San Juan, and North Slope of Alaska. Physical stratigraphic, biostratigraphic, sedimentologic, and paleoecological studies are providing an analysis of the geologic history of these basins including the formation and preservation of coal-bearing sedimentary deposits. This program is expected to provide important regional information which will improve energy-resources characterization on Federal lands in the future.

Coal Hydrology Program

Water Resource Activities - The objective of the Survey's coal-hydrology effort is to assess hydrologic conditions and water-supply problems related to coal mining and land reclamation, as needs are identified jointly with State and local governments. Included are areal hydrologic investigations of surface and ground water, small watershed investigations, and water-quality studies in mined and reclaimed areas. In FY 1986, such activities were underway in 27 States. This work provides water-resources information essential to the preparation and review of applications for mining permits and reclamation plans by the coal industry. Water data collected by the GS and other Federal, State, and local agencies were indexed by the National Water Data Exchange (NAWDEX) managed by the GS Water Resource Division. Earlier indexed data have been used to produce a five volume "Index to Water Data Activities in Coal Provinces of the United States." These printed indexes are available free and contain information about surface-water quantity and quality, ground water quality, and areal investigations and other data-collection activities. The GS has also completed a special series of reports describing the hydrology of the principal coal areas of the Nation. The series is comprised of 57 reports that present information on ground water, surface water, and water quality in the areas covered. Information about availability of the reports may be obtained from NAWDEX.

D. OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

The primary objective of the OSMRE is to protect society and the environment from the adverse effects of surface coal mining operations and to do so under conditions consistent with the Nation's need for energy. The OSMRE's principal roles relative to Federal lands are to: (1) define policy and promulgate rules establishing performance standards and program administration processes; (2) review and process permit applications and mining plans, including such activities as are necessary for NEPA compliance, and recommend action on mining plans to the Secretary; (3) in States with approved State regulatory programs under Section 503 of Surface Mining Control and Reclamation Act of 1977 (SMCRA), negotiate Federal/State cooperative agreements for State regulation on Federal lands pursuant to Section 523(c) of the SMCRA; (4) in the absence of the Federal/State cooperative agreement, carry out the permitting, inspection and enforcement, and other functions of the regulatory authority as set forth in SMCRA; (5) provide oversight of State administration of the regulatory requirements under the terms of an approved Federal/State cooperative agreement; and (6) administer a program to designate Federal lands unsuitable for surface coal mining under the petition process specified in Sections 522(a) and (c) of the SMCRA.

Petitions to Designate Areas Unsuitable for Surface Coal Mining

The Red Rim petition which was submitted by the National Wildlife Federation and the Wyoming Wildlife Federation on May 10, 1982, and amended to include Federal lands on September 27, 1982, alleged that mining would adversely affect fragile land that is valuable habitat for pronghorn antelope, and that the reclamation of the land is not technically and economically feasible. The petition area contained no leased Federal coal, but included 9,729 acres of Federal land and 9,723 acres of private land in a checkerboard land ownership pattern within the proposed Red Rim Federal coal lease tract.

OSMRE issued a final combined Petition Evaluation Document/Environmental Impact Statement (PED/EIS) in November 1985. OSMRE made its decision on the Red Rim unsuitability petition in March 1986. OSMRE did not designate any area as unsuitable for surface coal mining operations. However, OSMRE will condition all future permits for the area to allow no mining in the southern half of the petition area until reclamation of antelope habitat has been successfully demonstrated in the northern half of the area. This decision was similar to the agreement reached by two of the contending parties, Rocky Mountain Energy Company and the National Wildlife Federation, to provide for mining on private lands of the northern part of the petition area.

Federal/State Cooperative Agreements

As of the end of FY 1986, the Secretary had entered into permanent program cooperative agreements with the States of Alabama, Colorado, Montana, New Mexico, North Dakota, Ohio, West Virginia, and Wyoming to manage surface coal mining on Federal lands in accordance with OSMRE requirements. In addition, cooperative agreements are being promulgated with the States of Illinois, Utah and Virginia, which are expected to be fully implemented in FY 1987.

Permit Application/Mining Plan Review

At the beginning of FY 1986, OSMRE had 43 permit applications pending review for which approval of a mining plan, or approval of a modification to an approved mining plan is required. During the year, 21 more were received and 39 mining plans or modifications were approved.

E. FISH AND WILDLIFE SERVICE

An objective of the Fish and Wildlife Service (FWS) is to ensure that nationally important fish and wildlife resources receive adequate consideration in the development of the Nation's coal resources. Emphasis is placed on data gathering and analysis to identify potential areas of conflict and on assistance in developing alternatives that avoid or minimize losses or that provide opportunities for enhancement.

Most of the FWS activity in the Federal coal management program consists of providing technical assistance to the BLM during the planning phase of Federal coal leases and the OSMRE during mining and reclamation operations, as well as during the restoration of Abandoned Mine Lands (AML).

The FWS conducts operational as well as research and development efforts on fish and wildlife impacted by coal development. Operational activities are implemented by its Ecological Services offices located in the Regions. Data support is provided by the Office of Migratory Bird Management and the National Wetlands Inventory.

Research and development activities are conducted by various Divisions of the FWS (i.e., Division of Wildlife and Fish Research, and Division of Technical Development). Research and development support is furnished by the National Ecology Center in Fort Collins, Colorado, and other elements of the FWS Research program.

Operations

Activity by the FWS at the field level in the Federal coal management program is concentrated in three FWS designated Regions: Region 2 in the Southwest, Region 4 in the Southeast, and Region 6 in the Rocky Mountain West and Northern Plains.

Region 2 reviewed 5 Federal mine plans, 32 state mine plans, and 6 AML projects. Twenty-three informal and one formal Section 7 consultations for threatened and endangered species were conducted. Field-level technical assistance was provided routinely to regulatory authorities and the coal industry on recommended fish and wildlife studies, Best Technology Currently Available (BTCA) practices for fish and wildlife protection, and regulatory compliance procedures. Comments were provided on BLM coal program policies and proposed regulatory changes to the Oklahoma State Program.

Region 4 assisted in the review of OSMRE and BLM coal program policies.

Region 6 reviewed mine plans and permits at the request of State Regulatory Agencies and OSMRE. During FY 1986, 150 reviews were made by field offices. In addition, comments were provided on proposed changes to State coal programs and applicable regulations. In North Dakota, performance standards for reclamation and protection of woody draws were implemented. Performance standards for wetland reclamation are being jointly developed by FWS, OSMRE, and the State of North Dakota.

Field offices have been providing assistance to the mining industry and State Regulatory Agencies on protection of raptors from mining. Clinical case studies on resolution of raptor/mine conflicts are continuing. An unusual problem has been the potential loss of cliff-nesting raptors from subsidence due to longwall mining in Utah.

Inventory Data Collection

Region 2 continued to inventory habitat use of proposed lease areas for species of high Federal interest. Currently, raptor nests (prairie falcons, golden eagles, and ferruginous hawks) are being monitored for nesting activities and success in the San Juan-Chaco coal area. A third inventory effort initiated during FY 1984 on the Rio Puerco Resource Area is being conducted.

Region 6 prepared data adequacy standards for the Powder River and Green River - Hams Fork Coal Regions for raptors and Migratory Birds of High Federal Interest (MBHI). Under current State of Wyoming regulations, proposed mining plans must be approved by FWS for raptors, MBHI, and wetland reclamation.

F. DEPARTMENT OF AGRICULTURE - FOREST SERVICE

The USDA, Forest Service (FS), has land management planning responsibilities for lands under its jurisdiction. In addition, the Secretary of Agriculture must consent to the lease terms before a lease can be issued, and must consent to the approval of mining and reclamation plans which include Federal coal leases on National Forest (NF) lands.

The FS effort in FY 1986 included land and resource management planning, and responding to lease by applications, modifications, readjustments, relinquishments, exploration proposals, operating plans, and mine plan reviews.

Land and Resource Management Planning - Forest Plans for the White River in Colorado, the Medicine Bow in Wyoming, the Fishlake, Dixie, and Manti-LaSal in Utah, the Jefferson in Virginia, the Monongahela in West Virginia, and the Shawnee in Illinois have either been completed or the public comment period has ended. The Forest Plans include a report on the application of the Unsuitability Criteria (43 CFR 3461).

A draft Forest Plan and an Unsuitability Criteria review for the Wayne-Hoosier National Forest in Indiana will be available in FY 1987.

Lease by Application - Lease applications responded to by the FS include:

| <u>Location</u> | <u>Status</u> | <u>Quantity</u> |
|---------------------------|---------------|-----------------|
| Manti-LaSal NF, Utah | Completed | 1 |
| Daniel Boone NF, Kentucky | Pending | 1 |

Modifications - Lease modifications responded to include:

| <u>Location</u> | <u>Status</u> | <u>Quantity</u> |
|----------------------|---------------|-----------------|
| Manti-LaSal NF, Utah | Completed | 1 |

Readjustments - Lease readjustments responded to include:

| <u>Location</u> | <u>Status</u> | <u>Quantity</u> |
|---------------------------|---------------|-----------------|
| White River NF, Colorado | Pending | 1 |
| Manti-LaSal NF, Utah | Completed | 4 |
| Manti-LaSal NF, Utah | Pending | 8 |
| Fishlake NF, Utah | Completed | 5 |
| Daniel Boone NF, Kentucky | Completed | 1 |

Relinquishments - Lease relinquishments responded to include:

| <u>Location</u> | <u>Quantity</u> |
|--|-----------------|
| Grand Mesa/Uncompahgre/Gunnison NF, Colorado | 3 |
| Fishlake NF, Utah | 4 |
| Daniel Boone NF, Kentucky | 3 Processing |
| Daniel Boone NF, Kentucky | 1 |

Exploration Licenses - One proposal was responded to in Wyoming, and four in Utah.

Operating Plans - One operating plan was responded to in Colorado, six in Utah, and one in Kentucky.

Mining Permit/Mining Plan Reviews - The FS responded to mining proposals involving National Forest System lands as follows:

| <u>Forest</u> | <u>Quantity</u> |
|---|-----------------|
| Medicine Bow, Wyoming | 7 |
| White River, Colorado | 1 |
| Grand Mesa/Uncompahgre/Gunnison, Colorado | 2 |
| Manti-LaSal, Utah | 10 |
| Dixie, Utah | 1 |
| Daniel Boone, Kentucky | 1 |

G. DEPARTMENT OF JUSTICE

Under section 15 of FCLAA, the Secretary of the Interior must refer to the Attorney General each issuance, renewal, assignment, or readjustment of a Federal coal lease. The Attorney General has 30 days within which to advise the Secretary "as to whether such lease would create or maintain a situation inconsistent with the antitrust laws." Under section 8B of the FCLAA, the Attorney General is required to conduct an annual study of "competition in the coal and energy industries," and to report the results of that study to the Secretary of the Interior and the Congress. Section 15 of the FCLAA also requires the Department of the Interior to consult the Department of Justice (DOJ) "at each stage in the formulation and promulgation of rules and regulations concerning coal leasing." The DOJ also represents the Department of the Interior in all litigation involving Federal coal.

IV. LITIGATION

A. BLM LITIGATION

1. Powder River Sale

Two lawsuits challenged the 1982 regional coal lease sale for the Powder River Region. The cases were originally filed in the U.S. District Court for the District of Columbia, where a motion for a restraining order against the lease sale was denied. On the government's motion, the cases were consolidated and transferred to the federal court in Montana. The court heard arguments in December 1982 on cross motions for summary judgment and motions to dismiss specific allegations. The Montana court has now separated the cases for decision.

In Northern Cheyenne Tribe v. Watt, Civil No. 82-116 (D. Mont.), the Tribe asserted that the EIS prepared for the sale was deficient because of its alleged failure to discuss adequately the effects of the proposed regional leasing on the plaintiff's reservation. On May 28, 1985, the court ruled in favor of the Tribe and declared void the leases issued as a result of the sale. The Department of the Interior petitioned the court for reconsideration of its order to cancel the leases. The lessees petitioned the court to intervene and for reconsideration. The court granted the motions for intervention, stayed its cancellation order and enjoined all lease operations. On October 6, 1986, the court granted the government's motion and (1) allowed one lessee to continue to mine its three mine maintenance leases provided mining did not cause "significant socioeconomic impacts" on the Tribe and (2) directed the Secretary to suspend the remaining leases pending supplementation of the EIS and appropriate review of lease issuance, terms, and conditions.

In National Wildlife Federation v. Burford, Civil No. 82-117 (D. Mont.), the plaintiff groups challenged the presale procedures and the sale itself. The plaintiffs alleged that the Department failed to receive fair market value for the lease tracts sold, that the land use plans underlying the sale acreage were formulated in violation of statutory planning standards, that the Secretary's rules (and resulting plans) on the treatment of reclaimability in the Federal lands review under section 522(b) of the SMCRA are legally deficient, that certain changes in the treatment of surface owner consents were illegal, and that certain tracts were not delineated properly. The State of Wyoming and several lessees have intervened as defendants. On September 3, 1985, the court ruled in favor of the Department on the tract delineation and surface owner consent issues, dismissed the allegations concerning reclaimability, and postponed ruling on the land use planning and fair market value issues until the Department reviewed the administrative record, and supplemented it if necessary, and the parties filed additional briefs. This has now been completed, and the court has heard oral argument on the remaining issues.

2. Coal Leasing Rules

In Natural Resources Defense Council v. Burford, Civil No. 82-2763 (D.D.C.), eight groups have joined to challenge the July 1982 revisions to the July 1979 coal program rules. The suit sought: (1) to enjoin implementation of the revised coal regulations; (2) to declare the revised regulations improperly issued; and (3) to enjoin any future coal lease sales until the reclaimability standard of section 522(a)(2) of the SMCRA is applied to the lease tracts prior to a sale. In support of their lawsuit, the plaintiffs alleged that the Department, in amending the rules, violated NEPA and various provisions of the FCLAA, FLPMA, and SMCRA. The parties have filed and fully briefed cross motions for summary judgment.

After Secretary Hodel announced his decision on the coal program in February 1986, the court directed the parties to indicate the effect on the case of these decisions. The plaintiffs then agreed to dismissal of their NEPA allegations and to focus the issues on specific regulations and policies. Among the remaining issues are: (a) the limited use of pre-FLPMA land use plans for coal leasing; (b) public participation in the coal leasing program; (c) the policy established in 1979 of determining reclamation suitability at the mine permit stage rather than prior to leasing; (d) the diligent lease development requirements for coal leases issued prior to the Federal Coal Leasing Amendments Act of 1976; and (e) allowing extension of time to submit a mine plan for reasons beyond the lessee's control. Supplemental briefs have been filed and the case is ripe for decision.

3. Lease Readjustment

Eight cases are pending which involve readjustment of coal leases. The two principal issues are the timeliness of readjustment and imposition of the 12 1/2% royalty rate required under FCLAA for surface mined coal. FMC Wyoming Corp. v. Hodel, No. 84-2175 (10th Cir.), on cross-appeals from 587 F. Supp. 1545 (D. Wyo. 1984); Coastal States Energy Corp. v. Hodel, No. 86-1301 (10th Cir.), on appeal from 629 F. Supp. 9 (D. Utah 1985); Gulf Oil Corp. v. Hodel, 631 F. Supp. 29 (D.N.M. 1985), no final order; Lone Star Steel Corp. v. Hodel, No. 86-2146 (10th Cir.), on appeal from Civil No. 84-583 (E.D. Okla., June 30, 1986); Ark Land Company v. Hodel, No. 85-0313 (D. Wyo.); Coastal States Energy Co. v. Hodel, No. 85-665 (D. Utah); Consolidation Coal Co. v. Hodel, Civil No. 85-361 (D. Mont.); and Kaiser Steel Corp. v. Hodel, Civil No. 86-0238 (D. Utah). In addition, the discretionary royalty rate for underground coal, which the Department has set by regulation at 8% is challenged in both Coastal cases and may also be raised by the plaintiffs in the Ark Land case. A ninth case was decided during FY 1986 involving the effect of a lease modification on the readjustment date. AMCA Coal Leasing v. Hodel, No. 85-730 (D. Utah).

The leases were all issued subject to the right of the Secretary to readjust the terms and conditions of the leases, including royalty provisions, at the end of every 20 years, 30 U.S.C. section 207 (1970). BLM notified each of the lessees of its intent to readjust leases prior to the 20-year anniversary date, although for some the proposed terms and conditions were sent shortly thereafter and for others, the BLM decision on the lessee's objections to the proposed terms and conditions was issued after the date. The new terms and conditions were affirmed by the Interior Board of Land Appeals (IBLA) and these suits for judicial reviews followed.

Plaintiff in the FMC case asserted that by failing to dispose of plaintiff's administrative objections prior to the 20-year anniversary date, the Department waived the Secretary's power to readjust the leases, citing Rosebud Coal Sales Co. v. Andrus, 667 F.2d 949 (10th Cir. 1982). The District Court ruled that notice of readjustment is sufficient to preserve the Secretary's right of readjustment under Rosebud. However, the court went on to hold that the royalty rate must be established on a case-by-case basis and the statutory minimum of 12 1/2 percent established by the Congress for coal mined by surface methods in the (FCLAA) is not mandated by law upon lease readjustment. The Department has appealed from the latter holding and FMC appealed the court's ruling that the notice was adequate. Oral argument is scheduled for November 19, 1986.

In Coastal States (629 F. Supp. 9), the court responded to motions for summary judgment by holding that notification was timely and that imposition of the 12 1/2% minimum royalty for surface mined coal was required by FCLAA. The court specifically disagreed with the Wyoming court's holding in FMC on the royalty rate issue. The court also found that the establishment of a mandatory eight percent royalty rate for underground coal by regulation was a proper exercise of discretion. The Coastal decisions are also on appeal to the Tenth Circuit with oral argument scheduled for November 19, 1986.

In Gulf Oil, the district court also disagreed with the FMC decision and ruled that the readjustment was proper. However, the court has stayed issuance of a final order until the Tenth Circuit decides the FMC appeal. In Lone Star, the district court held that readjustment was proper, relying on the Coastal States decision. This case is also on appeal to the Tenth Circuit, and briefs are due in November and December 1986. The remaining cases are in various stages and are not ripe for decision. (An additional case, Sunoco Energy Development v. Hodel, Civil No. 85-0010 (D. Utah), has been voluntarily dismissed with prejudice because title to the land in the lease was transferred to the State of Utah.)

In AMCA Coal Leasing, the challenge to the readjustment is different. Plaintiff asserted that a 1981 modification to its lease--the addition of acreage under section 3 of the Leasing Act, 30 U.S.C. section 203--created a new lease for which the readjustment anniversary date should be 2001. The Department argued that readjustment of the royalty rate should occur in 1982 at the regular readjustment date of the leases as issued. The court affirmed the Department and no appeal was filed.

4. Fort Union Sale

Plaintiffs in National Wildlife Federation v. Clark, Civil No. 83-2648, (D. D.C.) challenged the September 1983 lease sale in the Fort Union Region. In January 1984, the district court issued a permanent injunction against the Secretary's issuing any leases based on that sale. The injunction expired by its terms during the 1986 fiscal year, but all bids received at the sale had either been rejected or withdrawn. Thus, no coal leases will be issued as a result of the 1983 lease sale.

5. Federal Coal Under Allotted Lands

Several Navajos owning allotted land in New Mexico have filed a class action in Etcitty, et al. v. United States, et al., Civil No. 83-1408C (D. New Mexico, filed August 31, 1983), seeking, inter alia, a declaration of rights for all Navajo Indians who hold beneficial title to any interest in allotted lands in New Mexico held in trust by the United States, where the trust patent states that the United States reserves any coal interest. Plaintiffs primarily claim that the mineral reservations in the patents were made contrary to the Dawes Act authorizing the allotments. A class has been certified by the court for this issue. They also claim that they are entitled to a supplemental patent for lands conveyed with a coal reservation, pursuant to the Act of April 14, 1914, 30 U.S.C. Section 82 (1982), where lands covered by the trust patents were subsequently classified as non-coal in character. Codefendants include holders of PRLAs for the federal coal underlying the allotted surface. The case is still being briefed.

6. Navajo Reservation Litigation

The Navajo Tribe is seeking a determination that approximately 1.8 million acres of land reserved to the Navajo by Executive Orders Nos. 709 (November 9, 1907) and 744 (January 28, 1908), but returned to the public domain by Executive Order Nos. 1000 (December 30, 1908) and 1284 (January 16, 1911), are still part of the present Navajo Reservation. Navajo Tribe of Indians v. State of New Mexico, et al., Civil 82-1148-JB (D. New Mexico). The Tribe also seeks a judgment that the United States breached a fiduciary duty to the Tribe by treating the land as part of the public domain and a judgment that all conveyances by the United States subsequent to Executive Orders 709 and 744 be cancelled. Finally, the Tribe asserts a claim for trespass damages against all present owners of the land.

The government filed a motion to dismiss for lack of jurisdiction and failure to state a claim in January of 1983. The Court ruled in the government's favor in December 1983 and the Tribe has now appealed. Briefs have been filed and the Appellate Court has not yet issued its decision.

7. Applicability of Section 3 of FCLAA to Non-Coal Mineral Leasing

In Conoco and Consolidation Coal Co. v. Hodel, 626 F. Supp. 287 (D. Del. 1986), the court upheld the Department's interpretation of 30 U.S.C. Section 201(a)(2)(A) (1982), section 3 of FCLAA, as barring lease issuance, after August 4, 1986, of any mineral lease under the Mineral Leasing Act to an entity or any of its affiliates who holds and has held a nonproducing coal lease for 10 years. Plaintiffs had contended that the section 3 leasing prohibition extended only to issuance of coal leases and that section 3 did not restrict the ability of the holder of a non-producing coal lease (or any of its affiliates) to acquire new non-coal leases such as oil and gas leases. No appeal was filed.

8. Lease Cancellation for Default

In Re China Butte Coal Company, No. 84-00736-B (D. Wyo.), was a bankruptcy proceeding in which the debtor-lessee failed to make its third annual deferred bonus and rental payments. Upon such a default, BLM rules make the rest (fourth and fifth installments) of the deferred bonus due and owing. Upon receiving BLM's notice of default, debtor filed for bankruptcy protection. Debtor's reorganization plan seeks a buyer for the federal lease, which the debtor won in Round I, Green River-Hams Fork regional lease sale in 1982. The debtor was unsuccessful and has now been dissolved with no assets available for distribution to creditors. BLM then recovered a portion of the remaining bonus from the lessee's bonding company.

9. Exchanges

Whitney Benefits, Inc. v. Hodel, No. 84-0193 (D. Wyoming) and Whitney Benefits, Inc. v. United States, No. 84-614 (Ct. Cl.) arise from the same set of facts. Plaintiff owns a tract of coal in Wyoming for which it has pursued an exchange under the Surface Mining Control and Reclamation Act (SMCRA). A portion of the tract has been deemed unsuitable for mining due to its location in an alluvial valley floor (AVF). In the district court case, plaintiff seeks to compel an exchange. The Court found for plaintiff that BLM had unduly delayed, and ordered that the exchange be completed by August 31, 1985. BLM then determined that the coal had a negative value of 79 million dollars and declined to proffer Federal coal in exchange. On December 3, 1985, the District Court for the District of Wyoming ruled (Civil No. 84-0193) that the exchange must be completed. In April 1986, the BLM tendered a tract of Federal coal to the plaintiff in compliance with the Court's order. Plaintiffs rejected the tender. BLM then withdrew this tender and tendered a different tract. The second tract is currently undergoing a comparative economic evaluation with plaintiff's tract. In the claims court case, plaintiff seeks compensation for the "taking" that occurred when its land was found to be located in an AVF and under SMCRA was thus rendered unmineable. That case is stayed pending the outcome of the district court case.

Two Montana suits challenge the validity of the 1983 "Circle West" exchange of fee coal interests in Montana between BLM and Meridian Land and Mineral Company, a subsidiary of Burlington Northern, Inc., National Coal Association, et al. v. Hodel, Civ. No. 85-115 BLG, (D. Mont.); Northern Plains Resource Council, et al. v. Hodel, Civ. No. 85-150 BLG (D. Mont.). In these suits, plaintiffs allege that such an exchange is not within the contemplation of Section 206 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. Section 1716, and is barred by Section 2(c) of the Mineral Leasing Act, 30 U.S.C. Section 202, which regulates issuance of Federal coal leases to common-carrier railroads. These arguments were asserted previously in National Coal Association, et al. v. Watt, Civ. No. 83-2985 (D.D.C.), with respect to the "Corral Canyon" exchange between BLM and Rocky Mountain Energy Company, a subsidiary of Union Pacific Corporation, and were rejected by the District of Columbia Court on August 28, 1985. The case is fully briefed before the United States Court of Appeals for the District of Columbia Circuit and oral argument is scheduled for October 1986.

The National Coal Association, in its Montana suit, also argues that the Secretary was required by FLPMA to consider the impacts of the proposed exchange on competition in the coal industry. This issue was raised in the Corral Canyon case but the D.C. court made no clear ruling, finding that, although the Secretary might not be obligated to review impacts on competition under the FLPMA "public interest" standard, he had given the issue adequate consideration in his Corral Canyon decision.

The Northern Plains Resources Council, in its case, also alleges that in consummating the exchange the Secretary did not comply with NEPA, the planning, public interest, and equal value requirements of FLPMA, and the Administrative Procedure Act.

The Circle West exchange had originally been challenged by the same plaintiffs in the District of Columbia (NCA v. Clark, Civil No. 83-3320; and NPRC v. Clark, Civil No. 83-3330), but on November 14, 1984, the district court dismissed those cases for lack of jurisdiction over an indispensable party, Meridian Land and Minerals Co.

B. OSMRE FEDERAL LANDS LITIGATION

1. In Re: Permanent Surface Mining Regulation Litigation II, Civil No. 9-1144 (D.D.C.)

Several groups challenged the Secretary's Federal lands regulation at 30 CFR Parts 740-746, promulgated to implement the SMCRA. The regulations allow States to assume regulatory authority for surface coal mining and reclamation operations on Federal lands. The Secretary retains his responsibility to approve mining plans on Federal lands, to designate certain Federal lands as unsuitable for mining, and to regulate other activities on Federal lands. A mining plan is defined as the plan required under the Mineral Leasing Act of 1920, as amended (MLA), to mine leased Federal coal. The plaintiffs argued that these rules illegally delegated the Secretary's responsibilities under MLA and SMCRA.

On July 6, 1984, the U.S. District Court for the District of Columbia rendered a decision holding that portions of the Secretary's regulations governing Federal lands were inconsistent with the SMCRA and remanded those regulations to the Secretary for further action consistent with the Court's decision. Specifically, the Court invalidated the Secretary's regulation, 30 CFR 740.5, which limited the Secretary's duty to approve mining plans under the MLA. The court also held that the Secretary must exercise his power to review the operation and reclamation plan portions of permit applications under SMCRA to mine on Federal lands and that the regulatory authority in fully delegated cooperative agreement States has the authority to issue permits for surface coal mining and reclamation operations on Federal lands. Subsequently in FY 1986, OSMRE began to discontinue issuing Federal lands program permits for operations within Colorado, North Dakota, and New Mexico, as those cooperative agreements provided for permit issuance on Federal lands by the State alone.

The Secretary continues to make the necessary findings pursuant to MLA, SMCRA, NEPA, and other Federal acts and regulations, and now approves a mining plan approval document for the operation. Existing Federal permits are being phased out either at the midterm permit review stage or at the time of a major permit revision.

A notice of appeal has been filed on whether the Secretary has the duty to review the operation and reclamation plan portion of the permit application where a mining plan is submitted for leased Federal coal in cooperative agreement States. The court is scheduled to hear oral argument in January 1987.

V. MAJOR ISSUES FOR 1987

A. SECTION 3 of FCLAA (Section 2(a)(2)(A) of MLA)

The BLM published in the Federal Register proposed rules relating to the implementation of Section 2(a)(2)(A) of MLA (Section 3 of FCLAA) (51 F.R. 37202, October 20, 1986). Twenty-four sets of comments were received and were considered and addressed in the preamble and final rules. The final rules implementing Section 2(a)(2)(A) of MLA were published in the Federal Register on December 5, 1986. Section 3 provides that no onshore Federal lease may be issued under MLA to any entity that holds, and has held for 10 years, a Federal coal lease that is not producing in commercial quantities. The deadline for compliance was December 31, 1986. The BLM will be required to ensure compliance for all subsequent onshore leasing actions. Regulations and procedures for certification of lessee compliance with Section 2(a)(2)(A) are being developed in the Coal Operations Program.

In FY 85, seven bills addressing Federal coal management issues (H.R. 1898, H.R. 1934, S. 372, S. 570, S. 913, S. 946, and S. 2427) were introduced in Congress. H.R. 1934 was reported, with amendments, to the full House for consideration on June 11, 1986. S. 2427 was reported, with amendments, to the full Senate for consideration on September 10, 1986. On October 18, 1986, Congress adjourned, having not considered either bill.

If enacted, the bills would have amended Section 2(a)(2)(A), among other FCLAA provisions. The bills would have limited the Section 2(a)(2)(A) lessee-qualification provision to competitive Federal coal leases only, not all MLA leasable minerals. The bills generally would have required lessees wishing to hold Federal coal leases for more than 10 years to pay a holding fee either on newly acquired or on noncompliance Federal coal leases. The Department has supported the addition of an optional holding fee that current lessees may elect to pay on noncomplying leases existing on or after December 31, 1986. The holding fee would be a provision of all new and readjusted leases. Further, the Department also recommended against provisions in two bills that would have allowed relinquishment of noncomplying Federal coal leases (or reserves) in return for the privilege of receiving new Federal coal leases. Finally, the Department has recommended against the two different concepts of escalating payments in lieu of production for diligent development over years 11 through 20 that H.R. 1934 and S. 2427 would have allowed.

B. SECTION 7 of MLA

Section 7 of the MLA requires that each Federal coal lease be in production in commercial quantities before the end of the tenth year (diligent development); and annually thereafter (continued operation), or pay advance royalty in lieu of continued operation. Commercial quantities is defined by regulation to be 1 percent of the recoverable coal reserves. Final Section 7 Guidelines were transmitted to the Bureau Field Offices for implementation on December 19, 1985.

Several bills were introduced in the 99th Congress which consider changing the 10-year period and providing an opportunity to pay advance royalty (a holding fee) in lieu of diligent development. If similar legislation is reintroduced and subsequently enacted, such changes would cause a change in the diligence requirements enacted in 1976 and codified at 43 CFR 3483.

C. LOGICAL MINING UNITS

Section 2(d) of MLA was enacted in 1976 to provide for the formation of Logical Mining Units (LMU's). An LMU is a diligence mechanism which allows production on one lease or fee land to be counted as production from all other Federal (non-Indian) leases within the LMU. Inclusion of a lease in a producing LMU allows that lease to comply with the Section 2(a)(2)(A) lessee-qualification provision without having production from the lease in question. The final guidelines for LMU processing and approval were published in the Federal Register on August 29, 1985 (50 FR 35145), and transmitted to Bureau Field Offices for implementation on September 5, 1985.

Several bills were introduced in the 99th Congress which would alter the current statutory requirement that all lands in an LMU be contiguous. If similar legislation is reintroduced and subsequently enacted, such a change would require a slight regulatory change but would facilitate LMU program management.

D. FUGITIVE EMISSIONS

The Environmental Protection Agency (EPA) published a proposed rulemaking in the Federal Register on October 26, 1984, which would amend 40 CFR Parts 51 and 52 by adding surface coal mines to the list of 30 categories of major sources of emissions that are to be included in threshold applicability determinations under the Clean Air Act (the Act). Under the proposed rulemaking, surface coal mines would be governed by the various regulations under the Act. Whether a source is classified as "major" is dependent upon its potential to emit a pollutant on a tons-per-year basis beyond some specified limit.

The central question presented by this proposed rulemaking is the potential effect of listing. This includes both the costs to industry and the benefits occurring from Prevention of Significant Deterioration (PSD) review. As part of the proposed rulemaking process, the EPA prepared a regulatory impact analysis that included potential costs and benefits of this proposal. Due to the potential impacts on the Federal coal program, Federal coal lessees, and the coal industry, the Department of the Interior (DOI) has been involved in the tracking and reviewing of the EPA proposal.

In May of 1986, the DOI submitted its formal review comments of EPA's October 26, 1984, and February 28, 1986, notices (49 FR 43211 and 51 FR 7090) and associated documents on whether surface coal mines (SCMs) should be listed as major stationary sources under the Clean Air Act and whether fugitive emissions should be included in the calculations of total emissions from SCMs for determining applicability of PSD/new source review (NSR) permit requirements to such sources. DOI also examined the issue of what programs implemented by, and authorities provided to DOI could protect Class I or mandatory Class II areas from adverse impact on air quality related values.

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TABLE A-1
FEDERAL COAL LEASES ISSUED DURING FY 1986

| State | Effective Lease Date | Lessee(s) | Tract Name | Serial Number | Acreage | Estimated Recoverable Reserves | | | Bonus Bid (\$/ Acre) |
|--------------------------|----------------------|-------------------------|---------------------|---------------|--------------|--------------------------------|-----------|--------------|-------------------------|
| | | | | | | (Mil. Tons) | (Percent) | Royalty Rate | |
| Alabama | 10/01/85 | Russell Coal Co. | East Poplar Hollow | ES32662 | 310 | .112 | 12.5 | \$100.00 | |
| | 01/01/86 | Nickel Plate Mining Co. | Modified Jack Creek | ES35042 | 890 | 1.012 | 12.5 | 100.00 | |
| Colorado | 04/01/86 | Cyprus Western Coal Co. | -- | C40672 | 1,046 | 12.320 | 12.5 | 823.14 | |
| Montana ⁴⁸ 1/ | 10/01/85 | Peabody Coal Co. | -- | M56926 | 9,445 | 94.600 | 12.5 | -- | |
| North Dakota | 01/01/86 | Baukol Noonan, Inc. | -- | M62073ND | 240 | 1.490 | 12.5 | 100.03 | |
| Utah | 10/01/85 | U.S. Fuel Co. | -- | U51923 | 160 | 1.745 | 8.0 | 101.00 | |
| Wyoming | 03/01/86 | Medicine Bow Coal Co. | -- | W82736 | <u>2,974</u> | <u>12.790</u> | 12.5 | 481.29 | |
| Total | | | | | 15,065 | 124.069 | | | |

1/ This lease was issued in the Northern Cheyenne lease exchange.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
Solid Leasable Minerals System, September 30, 1986.

TABLE A-2

LEASES SOLD IN ALL REGIONAL SALES 1/ 2/
 (January 1981 through September 1986)

| REGIONS | DATE OF SALE | NO. OF TRACTS | ACRES | ESTIMATED TOTAL RECOVERABLE RESERVES (In Mil. Tons) | | TOTAL HIGH BONUS BIDS |
|----------------------------|----------------|---------------|-----------|--|------------|-----------------------|
| | | | | | | |
| Green River / Hams Fork | January 1981 | 6 | 11,283 | | 87.9 | 1,730,277 |
| | April 1981 | 2 | 5,572 | | 64.4 | 9,013,430 |
| | October 1981 | 1 | 5,974 | | 62.7 | 1,792,227 |
| | April 1982 | 2 | 4,262 | | 112.4 | 23,164,125 |
| | Total to Date | 11 | 27,091 | | 327.4 | 35,700,060 |
| Powder River | April 1982 | 10 | 16,554 | | 1,089.6 | 43,484,434 |
| | October 1982 | 2 | 5,176 | | 471.6 | 23,689,632 |
| | Total to Date | 12 | 21,730 | | 1,561.2 | 67,179,066 |
| Southern Appalachian | June 1981 | 6 | 5,040 | | 24.3 | 180,537 |
| | December 1981 | 4 | 3,629 | | 7.3 | 623,605 |
| | September 1982 | 3 | 1,520 | | 1.1 | 247,114 |
| | Total to Date | 13 | 10,189 | | 32.6 | 1,051,256 |
| | | | | | | |
| Uinta Southwestern Utah | July 1981 | 5 | 10,854 | | 79.7 | 14,200,410 |
| | February 1982 | 1 | 160 | | 2.3 | 158,400 |
| | May 1982 | 1 | 640 | | 7.5 | 5,216,00 |
| | February 1984 | 1 | 4,999 | | 36.7 | 9,542,041 |
| | Total to Date | 8 | 16,653 | | 126.2 | 29,116,851 |
| TOTAL ALL REGIONS | To Date | r/ 44 | r/ 75,663 | | r/ 2,047.4 | r/ \$133,047,233 |

NOTE: Data may not add to totals shown due to independent rounding.

r/ Revised

1/ These sales are the result of coal activity planning in designated Federal coal production regions.
 Does not include emergency or lease by application sales.

2/ All bids in the September 1983 Fort Union regional lease sale have been rejected or withdrawn. The results from this sale have been omitted from this table.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
 Solid Leasable Minerals System, September 30, 1986.

TABLE A-3 1/

AVERAGE HIGH BONUS BIDS FROM ALL REGIONAL SALES

| Region | Total Acres Sold | Total High Bonus Bids | Avg. Bid (In Dollars) | Estimated Total Recover. (In Mil. Tons) | Avg. Reserves Sold (Cents/Ton) | Avg. FOB Mine 2/ Per Ton of Coal (In Dollars) | Percent of 3/ Coal Price (Per Pound) | Avg. BTU (Per Pound) | Avg. High Bonus Bid (Cents/Mil. BTU 4/) |
|-----------------------|------------------------|--------------------------|-----------------------------|---|--------------------------------------|---|--|-------------------------|---|
| | | | (\$/Acre) | (In Mil. Tons) | Avg. Bid (Cents/Ton) | | | | |
| Green River-Hams Fork | 27,091 | 35,700,060 | 1,318 | 327.4 | 10.90 | 20.00 | .545 | 10,250 | .531 |
| Powder River | 21,730 | 67,179,066 | 3,092 | 1,561.2 | 4.30 | 7.50 | .573 | 8,250 | .261 |
| So. Appalachian | 10,189 | 1,051,256 | 103 | 46.2 | 2.29 | 30.00 | .076 | 12,500 | .092 |
| Uinta-SW Utah | 16,653 | 29,116,851 | 1,748 | 126.2 | 23.01 | 28.00 | .821 | 12,300 | .935 |

1/ All bids in the September 1983 Fort Union regional lease sale have been rejected or withdrawn. The results from this sale have been omitted from this table.

2/ Average price of coal sold at the mine.

3/ Cents/ton divided by average mine mouth selling price per ton of coal = percent of coal price.

4/ Average BTU/LB. x 2000 = BTU/ton divided by 1,000,000 = cents/ton divided by MM BTU/ton = cents/MM BTU.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986, and Coal Week, McGraw-Hill, Inc., Washington, D.C., February 7, 14, 28, and March 7, 1983, Vol. 9 No. 7 through No. 10.

TABLE A-4

LEASES SOLD IN ALL LEASE-BY-APPLICATION SALES
 (January 1979 through September 1986)

| State | No. of Tracts | Acres | Estimated Total Recoverable Reserves* | Total High Bonus Bids |
|--------------|---------------|---------------|---------------------------------------|-----------------------|
| Alabama | 5 | 1,970 | 2.01 | \$ 158,025.00 |
| Colorado | 14 | 6,363 | 48.26 | 1,191,542.20 |
| Kentucky | 6 | 5,146 | 12.41 | 493,030.00 |
| Montana | 4 | 1,428 | 46.20 | 35,700.00 |
| New Mexico | 2 | 4,016 | 76.28 | 118,592.00 |
| North Dakota | 6 | 2,688 | 27.46 | 129,500.00 |
| Oklahoma | 5 | 1,688 | 3.81 | 227,186.50 |
| Utah | 8 | 4,607 | 48.51 | 4,066,277.00 |
| Virginia | 1 | 251 | 0.30 | 27,610.00 |
| Wyoming | 7 | <u>12,710</u> | <u>157.77</u> | <u>3,283,588.00</u> |
| Total all | 58 | 40,867 | 423.01 | \$ 9,731,051.00 |

*Million tons

Source: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986.

TABLE A-5
SURFACE ACREAGE AND
RECOVERABLE RESERVES BY STATE:
SEPTEMBER 30, 1986

| State | No. of Leases | Estimated* | | Total Acres | FEDERAL LANDS | | | State | Private | Native American |
|----------------|------------------|----------------------|----------------|----------------|---------------|----|-------|--------|---------|--------------------|
| | | Recover. Reserves | Total Acres | | BLM | FS | Other | | | |
| (In Mil. Tons) | | | | | | | | | | |
| TOTAL | 596 | 16,534.5 | 882,900 | 393,858 | 96,661 | | 1,226 | 29,503 | 353,659 | 7,988 |
| Alabama | 18 | 40.2 | 14,348 | 890 | | | | | 13,458 | |
| Alaska | 2 | W | 3,160 | 3,160 | | | | | | |
| California | 1 | W | 80 | 80 | | | | | | |
| Colorado | 138 | 2,375.2 | 161,300 | 67,780 | 21,930 | | | | 71,581 | |
| Kentucky | 6 | 9.8 | 4,511 | | 4,511 | | | | | |
| Montana | 27 | 1,543.9 | 53,418 | 1,267 | 80 | | | 2,148 | 49,924 | |
| New Mexico | 30 | 487.6 | 43,803 | 19,222 | 909 | | | 7,086 | 8,598 | 7,988 |
| North Dakota | 20 | 236.6 | 16,679 | 40 | | | | | 16,639 | |
| Oklahoma | 40 | 171.1 | 65,881 | 890 | | | | | 64,993 | |
| Oregon | 3 | W | 5,411 | 538 | 4,874 | | | | | |
| Pennsylvania | 2 | W | 80 | | | 80 | | | | |
| Utah | 209 | 3,931.2 | 302,693 | 212,203 | 52,803 | | 22 | 19,707 | 17,957 | |
| Virginia | 1 | W | 251 | | 251 | | | | | |
| Washington | 2 | W | 521 | | | | | 241 | 280 | |
| Wyoming | 97 | 7,678.4 | 210,765 | 87,788 | 11,303 | | 1,124 | 320 | 110,229 | |

* As of the end of FY 1986, the BLM was in the process of reviewing the recoverable reserve determinations for all Federal coal leases. A revised reserve estimate will be available in the FY 1987 report.

W - Withheld to protect proprietary data.

NOTE: Details may not add to totals due to rounding and non-inclusion of proprietary reserve data.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations,
Solid Leasable Minerals System, September 30, 1986.

TABLE A-6
SURFACE ACREAGE AND
RECOVERABLE RESERVES BY REGION:
SEPTEMBER 30, 1986

| Region | No. of Leases | Estimated* | | Total Acres | FEDERAL LANDS | | | State | Private | Native American |
|-----------------|---------------|----------------|----------|-------------|---------------|-------|-------|--------|---------|-----------------|
| | | Total Recover. | Reserves | | BLM | FS | Other | | | |
| | | (In Mil. Tons) | | | | | | | | |
| TOTAL | 596 | 16,534.5 | 882,900 | 393,858 | 96,661 | 1,226 | | 29,503 | 353,659 | 7,988 |
| Fort Union | 23 | 524.8 | 22,575 | 40 | | | | | 22,535 | |
| Green River- | 108 | 2,080.2 | 152,251 | 94,587 | 400 | 1,124 | | 80 | 56,057 | |
| Hams Fork | | | | | | | | | | |
| Powder River | 80 | 8,448.3 | 177,417 | 11,888 | 10,903 | | | 2,388 | 152,236 | |
| San Juan River | 29 | 488.9 | 43,943 | 19,222 | 909 | | | 7,046 | 8,777 | 7,988 |
| So. Appalachian | 18 | 40.2 | 14,348 | 890 | | | | | 13,458 | |
| Uinta-SW Utah | 274 | 4,704.9 | 391,110 | 262,483 | 74,732 | 22 | | 19,707 | 34,161 | |
| Other | 64 | 247.2 | 81,258 | 4,748 | 9,717 | 80 | | 281 | 66,436 | |

* As of the end of FY 1986, the BLM was in the process of reviewing the recoverable reserve determinations for all Federal coal leases. A revised reserve estimate will be available in the FY 1987 report.

NOTE: Details may not add to totals due to rounding. Data in this table are used in Figures 2 and 3.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986.

TABLE A-7

LARGEST 15 FEDERAL COAL LESSEES RANKED BY
ACREAGE: SEPTEMBER 30, 1986

| Lessee | Acreage | Number of Leases |
|--------------------------|---------|------------------|
| Consolidation Coal Co. | 46,519 | 34 |
| AMCA Coal Leasing | 43,246 | 27 |
| Chevron, USA | 41,290 | 37 |
| Peabody Coal Co. | 40,159 | 17 |
| Utah Power & Light Co. | 29,350 | 17 |
| Swanton Energy Res. Inc. | 27,659 | 16 |
| Utah International | 26,758 | 25 |
| Kaiser Coal Corp. | 19,497 | 13 |
| Dorchester Coal Co. | 15,804 | 3 |
| Salt Creek Mining Co. | 14,929 | 6 |
| Black Butte Coal Co. | 14,902 | 1 |
| Decker Coal Co. | 14,770 | 5 |
| Pacific Power & Light | 13,961 | 12 |
| Evans Coal Co. | 13,559 | 9 |
| U.S. Steel Corp. | 13,230 | 13 |

SOURCE: U.S. Department of the Interior, Bureau of Land Management,
Division of Solid Mineral Operations, Solid Leasable Minerals System,
September 30, 1986.

TABLE A-8

READJUSTMENTS AND ASSIGNMENTS DURING FY 1986
AND PENDING READJUSTMENTS AND ASSIGNMENTS
BY STATE: SEPTEMBER 30, 1986

| <u>State</u> | No. of Leases Due for Readjustment in FY 1986 | No. of Leases Readjusted in FY 1986 | No. of Leases Readjusted and Pending Appeal at end of FY 1986* | No. of Leases Assigned in FY 1986 | No. of Leases Pending Assignment at end of FY 1986 |
|--------------|---|---|---|---|--|
| <u>TOTAL</u> | 49 | 49 | 35 | 50 | 25 |
| Colorado | 7 | 7 | 4 | 6 | 7 |
| Montana | 2 | 2 | 2 | 1 | 1 |
| New Mexico | 0 | 0 | 0 | 4 | 1 |
| North Dakota | 1 | 1 | 0 | 0 | 0 |
| Oklahoma | 1 | 1 | 0 | 0 | 0 |
| Utah | 36 | 36 | 28 | 38 | 15 |
| Wyoming | 2 | 2 | 1 | 1 | 1 |

* Includes those leases with readjustments under appeal to the Interior Board of Land Appeals or in Court.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1986.

TABLE A-9

RELINQUISHEMENTS AND MODIFICATIONS DURING FY 1986
AND PENDING RELINQUISHEMENTS AND MODIFICATIONS
BY STATE: SEPTEMBER 30, 1986

| State | No. of Leases Relinquished During FY 1986 | Total Acreage of Relinquished Leases | No. of Leases Pending Relinquishment at end of FY 1986 | No. of Leases Modified During FY 1986 | No. of Leases Pending Modifications at end of FY 1986 |
|--------------|---|--------------------------------------|--|---------------------------------------|---|
| <u>TOTAL</u> | 31 | 43,464 | 16 | 1 | 4 |
| Colorado | 4 | 3,844 | 8 | 1 | 0 |
| Kentucky | 1 | 319 | 1 | 0 | 0 |
| Montana | 0 | 0 | 0 | 0 | 1 |
| New Mexico | 0 | 0 | 2 | 0 | 0 |
| North Dakota | 1 | 441 | 2 | 0 | 0 |
| Oklahoma | 3 | 7,589 | 2 | 0 | 1 |
| Utah | 8 <u>1/</u> | 13,702 | 0 | 0 | 1 |
| Virginia | 0 | 0 | 1 | 0 | 0 |
| Wyoming | 14 | 17,569 | 0 | 0 | 1 |

1/ Five of these leases were transferred to the State of Utah by State in lieu selection.

SOURCE: U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, September 30, 1986.

TABLE A-10
FEDERAL COAL LEASES ISSUED SINCE FISCAL YEAR 1978
BY FISCAL YEAR

| | Number of Issued Leases | Total Acreage Of Issued Leases | Estimated Total Recoverable Reserves Of Issued Leases (In Mil. Tons) |
|---------|----------------------------|-----------------------------------|--|
| FY 1978 | 2 | 574 | 3.42 |
| FY 1979 | 13 | 9,062 | 70.78 |
| FY 1980 | 14 | 10,376 | 135.63 |
| FY 1981 | 15 | 33,398 | 295.63 |
| FY 1982 | 40 | 84,283 | 1,406.87 |
| FY 1983 | 21 | 28,609 | 996.07 |
| FY 1984 | 6 | 6,595 | 70.17 |
| FY 1985 | 6 | 1,473 | 6.23 |
| FY 1986 | 7 | 15,065 | 124.07 |
| Total | 124 | 189,435 | 3,108.87 |

NOTE: The data in this table are used in Figures A-1, A-2, and A-3. The differences in the number, acreage, and tonnages of leases issued and leases sold since FY 1978 is due to several factors. Thirteen PRLAs have been issued during the period; 5 leases have been sold, but have not yet been issued at the end of FY 1986; 6 leases were issued as the result of lease exchanges and partial lease assignments and thus were not counted as sold.

TABLE A-11
FEDERAL COAL LEASES SOLD SINCE FISCAL YEAR 1978
BY FISCAL YEAR

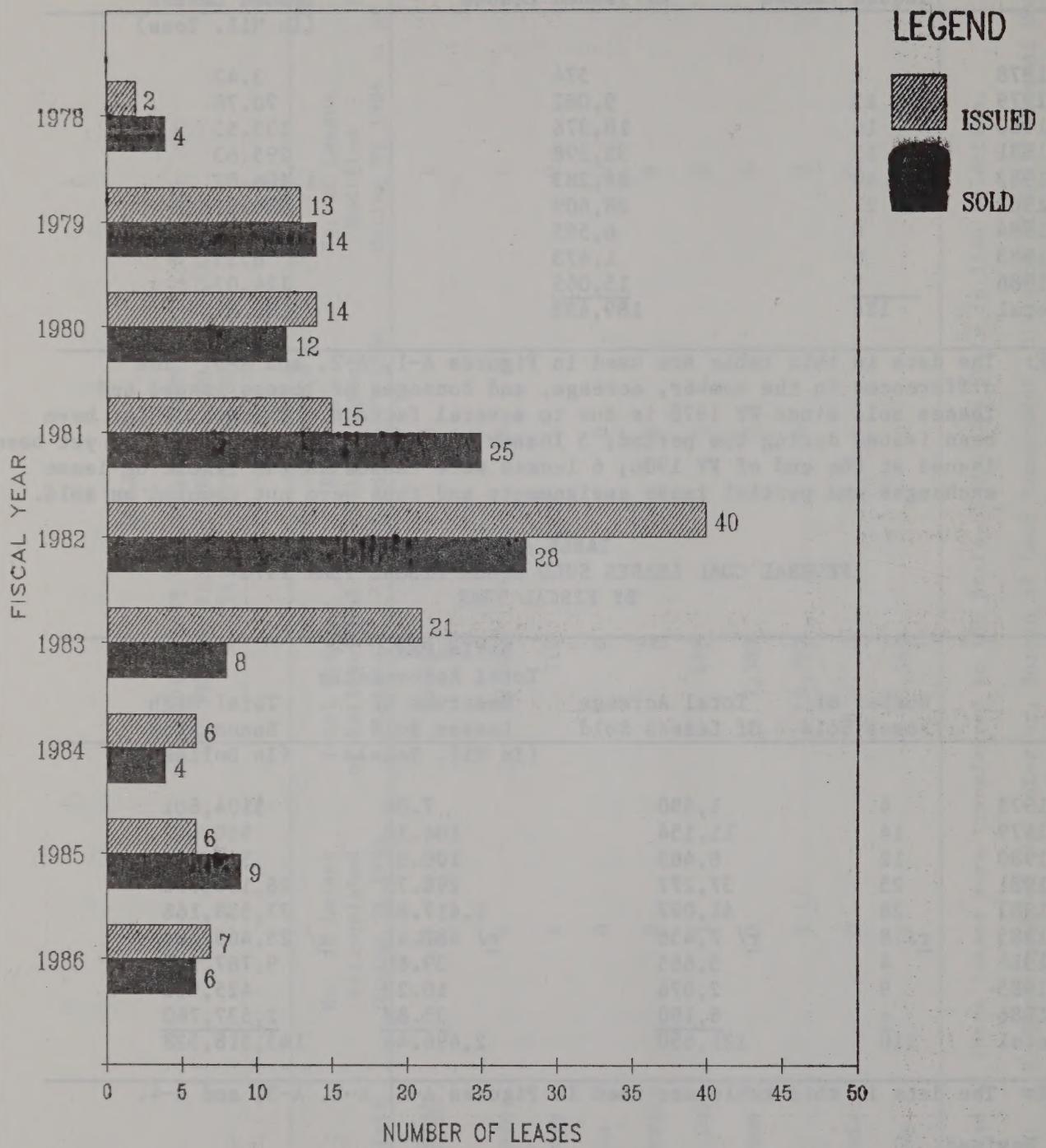
| | Number of Leases Sold | Total Acreage Of Leases Sold | Estimated Total Recoverable Reserves Of Leases Sold (In Mil. Tons) | Total High Bonus Bids (In Dollars) |
|---------|--------------------------|---------------------------------|--|--|
| FY 1978 | 4 | 1,490 | 7.04 | \$104,801 |
| FY 1979 | 14 | 11,154 | 106.10 | 960,042 |
| FY 1980 | 12 | 8,465 | 100.57 | 564,780 |
| FY 1981 | 25 | 37,277 | 298.73 | 26,150,862 |
| FY 1982 | 28 | 41,097 | 1,417.83 | 77,538,168 |
| FY 1983 | r/ 8 | r/ 7,456 | r/ 482.47 | r/ 25,468,204 |
| FY 1984 | 4 | 5,655 | 39.60 | 9,767,959 |
| FY 1985 | 9 | 2,876 | 10.22 | 425,952 |
| FY 1986 | 6 | 6,180 | 33.88 | 2,537,760 |
| Total | 110 | 121,650 | 2,496.44 | 143,518,528 |

NOTE: The data in this table are used in Figures A-1, A-2, A-3, and A-4.

r/ Revised

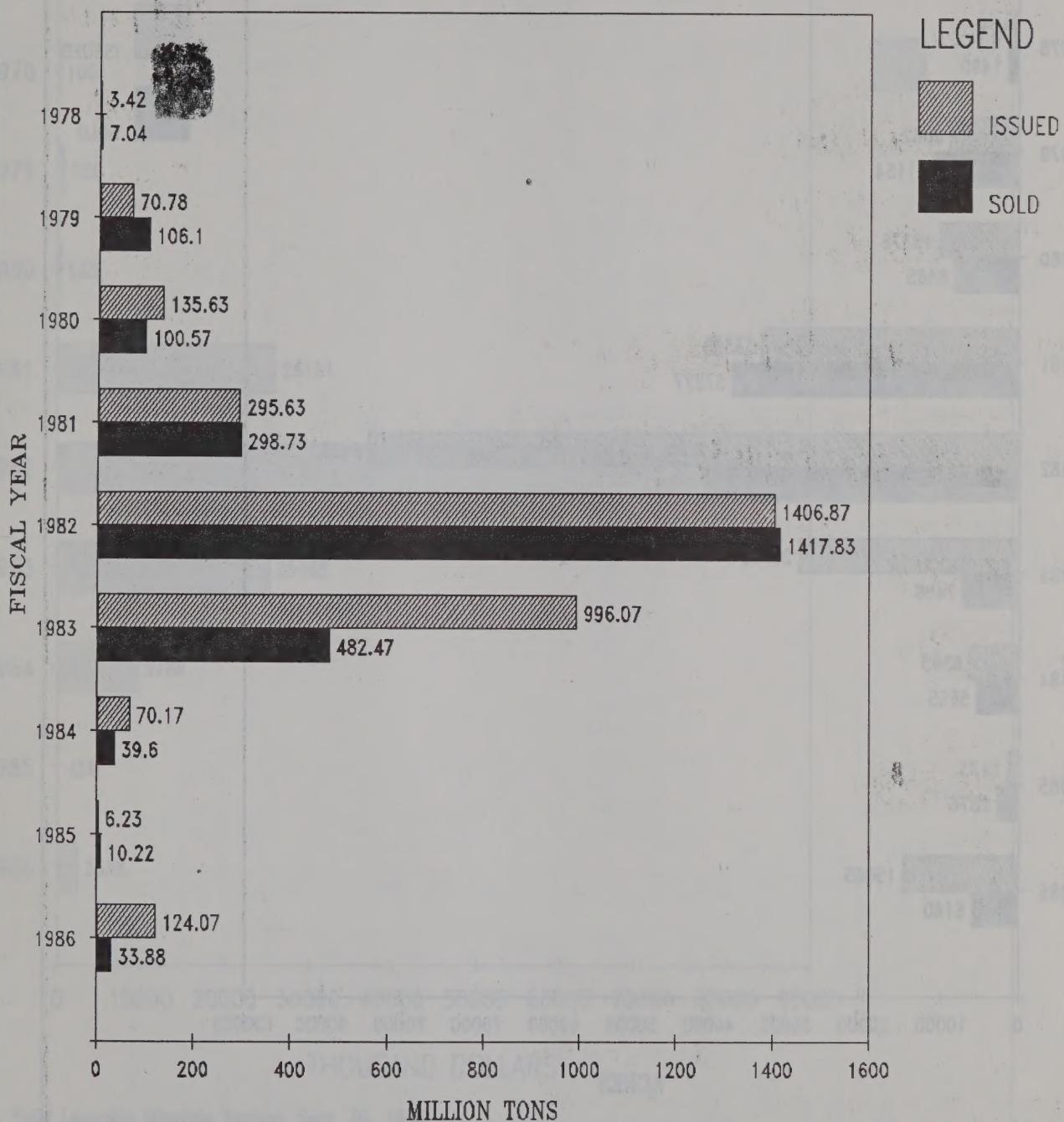
SOURCE: Tables A-10 and A-11, U.S. Department of the Interior, Bureau of Land Management, Division of Solid Mineral Operations, Solid Leasable Minerals System, September 30, 1986.

Figure A-1
Federal Coal Leases
Issued and Sold Since FY 1978



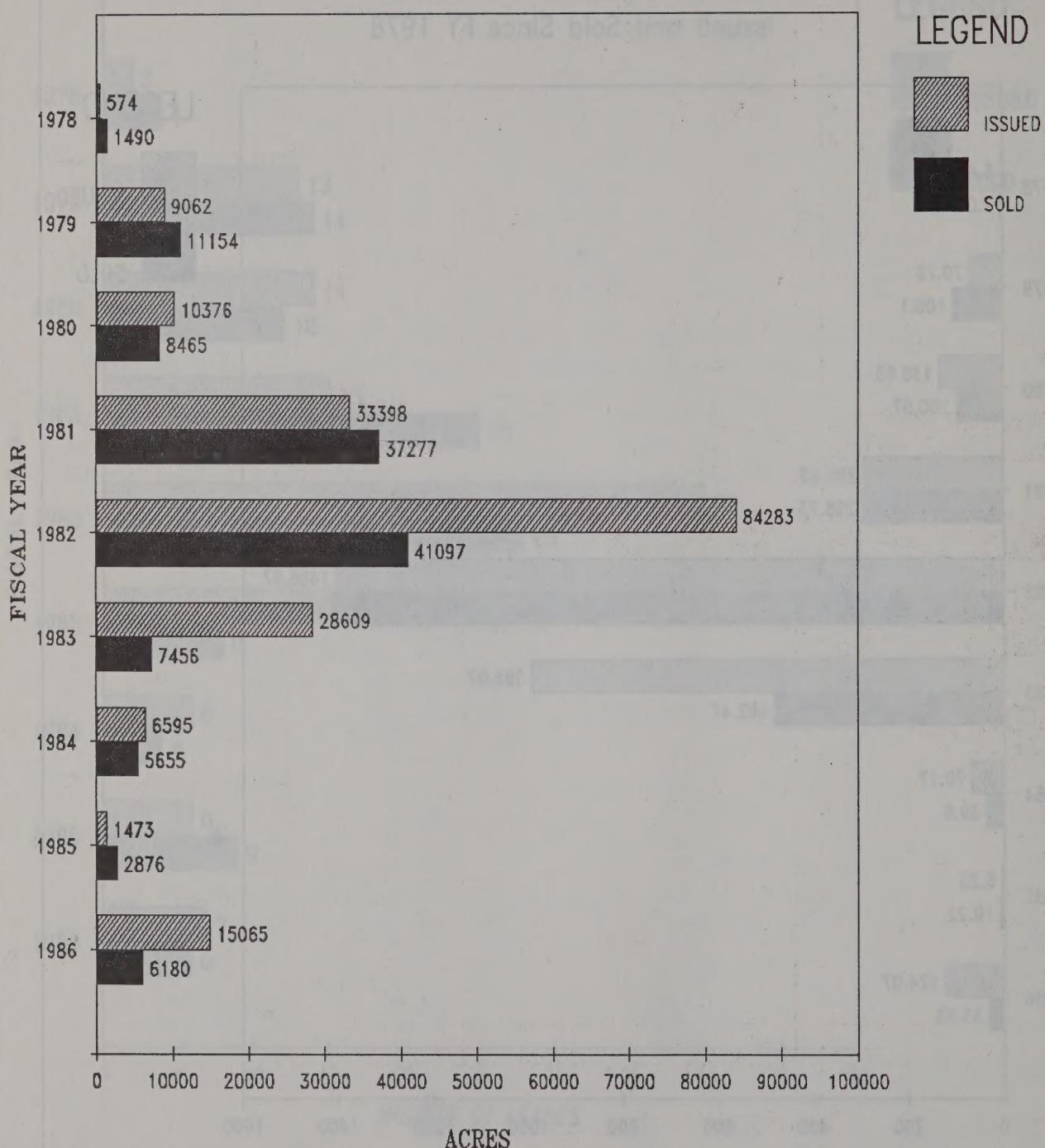
SOURCE: Solid Leasable Minerals System, September 30, 1986

Figure A-2
Recoverable Reserves
on Federal Coal Leases
Issued and Sold Since FY 1978



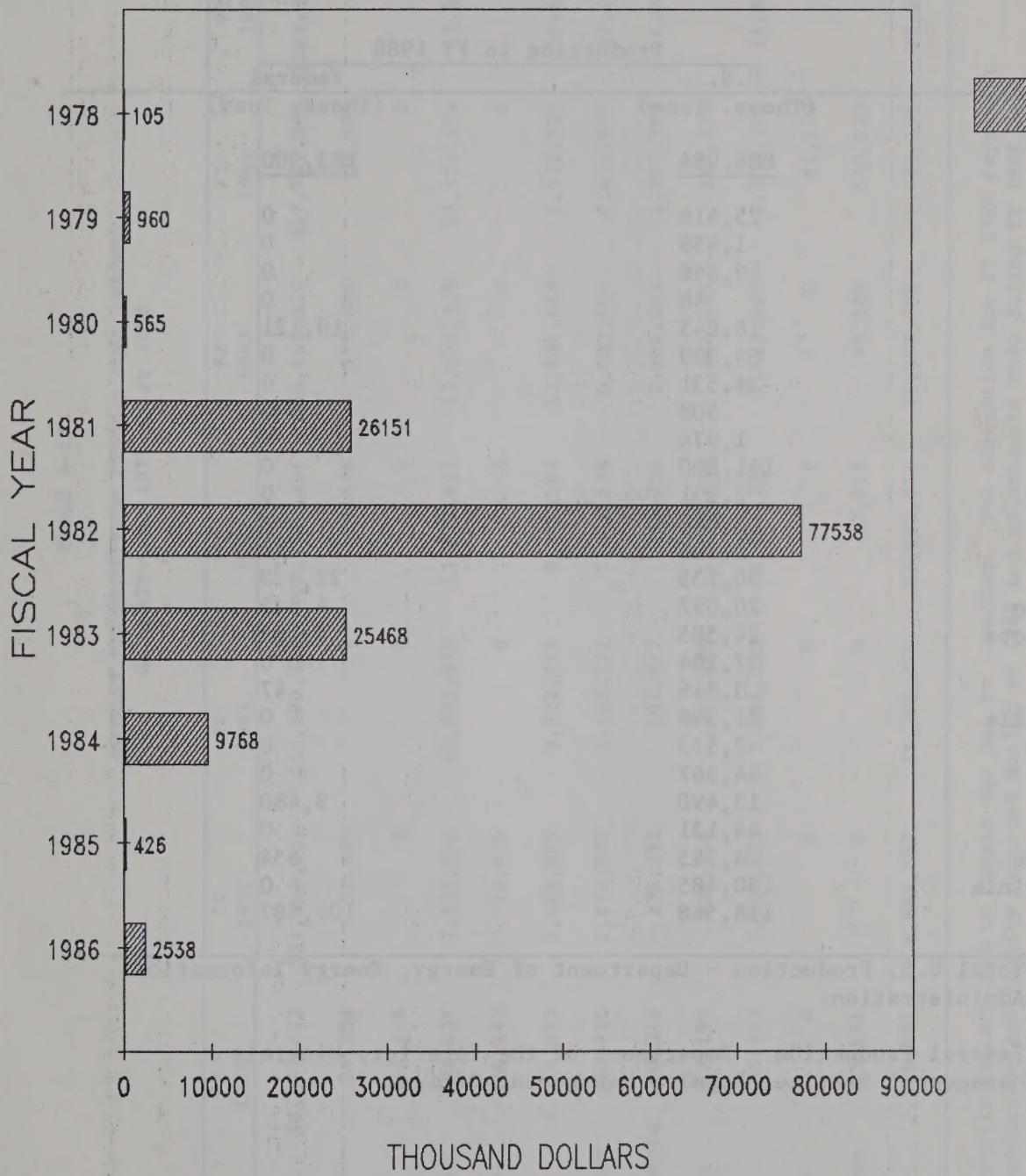
Source: Solid Leasable Minerals System, Sept. 30, 1986

Figure A-3
Acreage of Federal Coal Leases
Issued and Sold Since FY 1978



Source: Solid Leasable Minerals System, Sept. 30, 1986

Figure A-4
**Total High Bonus Bids Received
For Federal Coal Leases**
Since FY 1978



Source: Solid Leasable Minerals System, Sept. 30, 1986

TABLE A-12

TOTAL UNITED STATES COAL PRODUCTION AND FEDERAL PRODUCTION
BY STATE: FISCAL YEAR 1986

| State | Production in FY 1986 | |
|---------------|-----------------------|--------------------------|
| | U.S. (Thous. Tons) | Federal (Thous. Tons) |
| <u>Total</u> | <u>886,984</u> | <u>163,900</u> |
| Alabama | 25,416 | 0 |
| Alaska | 1,458 | 0 |
| Arizona | 10,566 | 0 |
| Arkansas | 48 | 0 |
| Colorado | 16,245 | 10,121 |
| Illinois | 64,399 | 0 |
| Indiana | 34,531 | 0 |
| Iowa | 508 | 0 |
| Kansas | 1,074 | 0 |
| Kentucky | 161,800 | 0 |
| Louisiana | 1,931 | 0 |
| Maryland | 3,048 | 0 |
| Missouri | 5,166 | 0 |
| Montana | 30,135 | 22,433 |
| New Mexico | 20,097 | 4,825 |
| North Dakota | 24,585 | 6,853 |
| Ohio | 37,104 | 0 |
| Oklahoma | 3,946 | 47 |
| Pennsylvania | 71,398 | 0 |
| Tennessee | 7,523 | 0 |
| Texas | 44,567 | 0 |
| Utah | 13,490 | 9,480 |
| Virginia | 44,131 | 0 |
| Washington | 4,765 | 654 |
| West Virginia | 130,485 | 0 |
| Wyoming | 128,568 | 109,487 |

SOURCE: Total U.S. Production - Department of Energy, Energy Information Administration.

Federal Production - Department of the Interior, Minerals Management Service, Royalty Management Office.

TABLE A-13

ROYALTY REVENUES FROM FEDERAL COAL LEASES,
BY STATE: FY 1975 TO FY 1986

| | FY 1975 | FY 1980 | FY 1981 | FY 1982 | FY 1983 | FY 1984 | FY 1985 | FY 1986 |
|--------------|--------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|----------------------|
| Total | \$4,857,423 | \$24,568,692 | \$40,280,418 | \$61,062,456 | \$56,666,428 | \$57,797,590 | \$104,597,046 | \$101,144,698 |
| Alabama | 24,394 | 31,669 | 0 | 3,686 | 175,600 | 58,633 | 0 | 0 |
| Alaska | 51,438 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Colorado | 364,035 | 7,115,564 | 11,952,875 | 13,170,861 | 12,270,325 | 13,121,474 | 17,331,963 | 20,032,273 |
| Kentucky | 126,643 | 10,830 | 0 | 0 | 0 | 0 | 0 | 0 |
| Montana | 1,219,863 | 2,065,885 | 3,922,771 | 8,782,544 | 13,681,669 | 7,533,527 | 14,625,338 | 17,853,566 |
| New Mexico | 242,716 | 1,472,900 | 3,440,772 | 7,841,138 | 5,000,506 | 6,623,975 | 23,884,620 | 15,402,285 |
| North Dakota | 60,013 | 272,272 | 101,677 | 745,253 | 2,106,051 | 1,477,787 | 6,344,295 | 6,669,614 |
| Oklahoma | 43,199 | 826,942 | 1,009,820 | 1,110,490 | 606,141 | 147,678 | 32,699 | 54,282 |
| Utah | 456,480 | 3,968,073 | 5,094,133 | 5,833,291 | 7,611,949 | 6,004,792 | 14,316,916 | 12,325,802 |
| Virginia | 0 | 0 | 0 | 0 | 0 | 41,110 | 90,271 | 0 |
| Washington | 18,851 | 0 | 0 | 13,115 | 46,149 | 139,948 | 79,729 | 130,826 |
| Wyoming | 2,249,791 | 8,804,557 | 14,758,370 | 23,562,078 | 15,168,038 | 22,648,666 | 27,391,215 | 28,676,050 |

NOTE: Details may not add to totals due to rounding. The statistics for FY 1986 represent production and royalty reported during FY 1986 and adjustments made during FY 1986 for prior periods. The FY 1986 royalty management statistics may not represent actual production achieved in FY 1986 for the royalty accrued on that production due to adjustment for previous years. These data are unpublished.

SOURCE: U.S Department of the Interior, Minerals Management Service, Royalty Management Office.

TABLE A-14

PRODUCTION FROM FEDERAL COAL LEASES,
BY STATE: FY 1975 TO FY 1986
THOUSAND TONS

| | FY 1975 | FY 1980 | FY 1981 | FY 1982 | FY 1983 | FY 1984 | FY 1985 | FY 1986 |
|--------------|------------|------------|------------|------------|------------|------------|------------|------------|
| Total | 26,897 | 71,958 | 94,645 | 104,430 | 105,449 | 104,150 | 162,189 | 163,900 |
| Alabama | 56 | 28 | 0 | 2 | 105 | 33 | 0 | 0 |
| Alaska | 343 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Colorado | 1,815 | 8,563 | 11,452 | 9,157 | 10,795 | 9,927 | 10,380 | 10,121 |
| Kentucky | 242 | 9 | 0 | 0 | 0 | 0 | 0 | 0 |
| Montana | 7,823 | 10,345 | 15,402 | 25,195 | 11,574 | 14,520 | 24,031 | 22,433 |
| New Mexico | 1,079 | 6,546 | 8,873 | 4,847 | 2,290 | 3,048 | 5,145 | 4,825 |
| North Dakota | 381 | 1,418 | 200 | 1,190 | 2,253 | 1,311 | 6,271 | 6,853 |
| Oklahoma | 271 | 300 | 277 | 246 | 101 | 33 | 29 | 47 |
| Utah | 3,031 | 8,618 | 8,577 | 7,892 | 10,124 | 6,128 | 11,438 | 9,480 |
| Virginia | 0 | 0 | 0 | 0 | 0 | 14 | 32 | 0 |
| Washington | 94 | 0 | 0 | 66 | 231 | 700 | 326 | 654 |
| Wyoming | 11,762 | 36,131 | 49,864 | 55,835 | 67,976 | 68,436 | 104,537 | 109,487 |

NOTE: The statistics for FY 1986 represent production and royalty reported during FY 1986 and adjustments made during FY 1986 for prior periods. The FY 1986 royalty management statistics may not represent actual production achieved in FY 1986 due to adjustments for previous years. Estimated in part. This data is unpublished.

SOURCE: U.S. Department of the Interior, Minerals Management Service, Royalty Management Office.

TABLE A-15

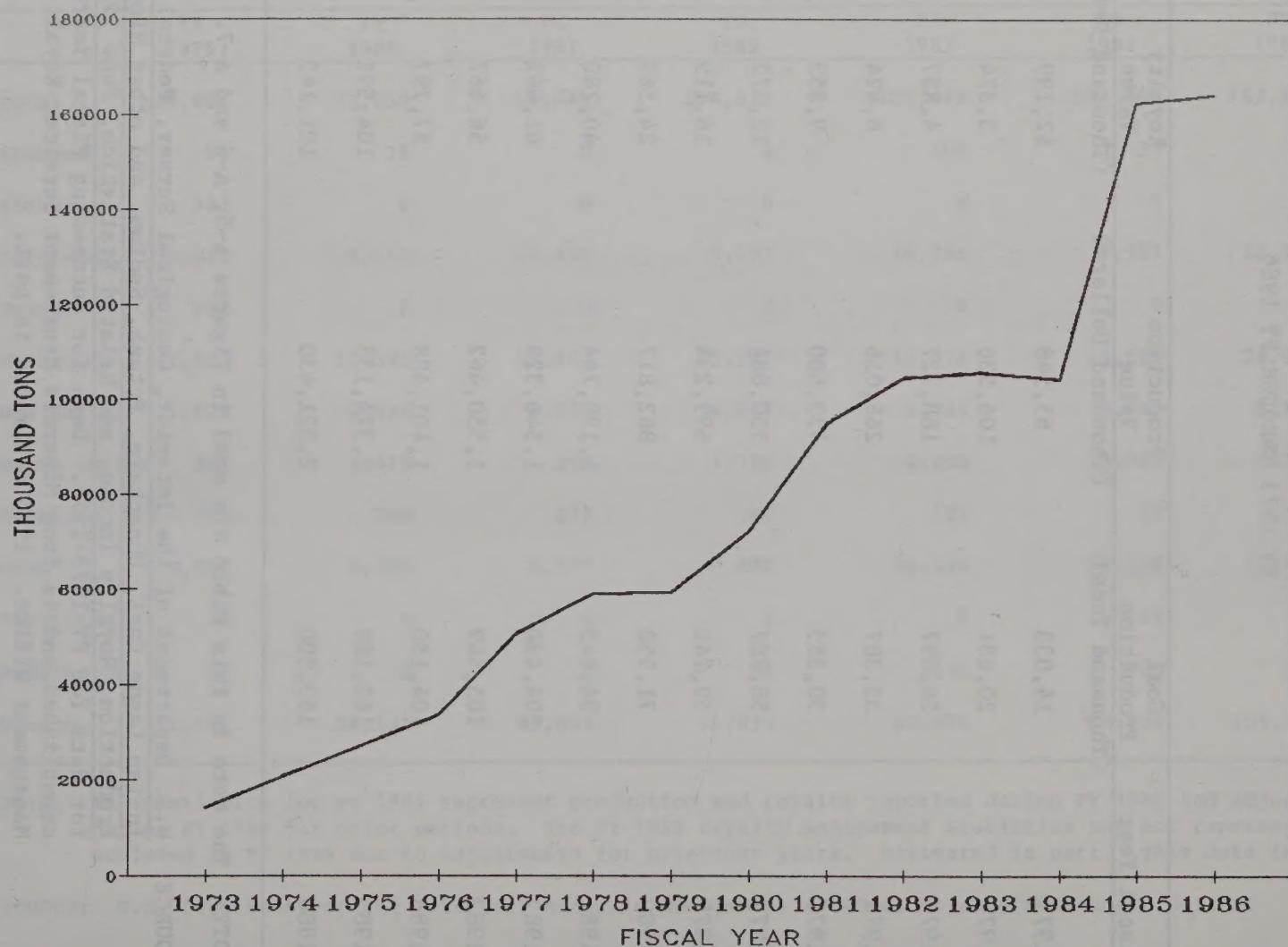
FEDERAL COAL PRODUCTION, PRODUCTION VALUE, AND ROYALTY VALUE
FY 1973 THROUGH FY 1986

| Fiscal Year | Coal Production (Thousand Tons) | Production Value (Thousand Dollars) | Royalty Value (Thousand Dollars) |
|-------------|------------------------------------|--|-------------------------------------|
| 1973 | 14,033 | 65,548 | \$2,199 |
| 1974 | 20,631 | 106,536 | 3,374 |
| 1975 | 26,897 | 168,727 | 4,857 |
| 1976 | 33,387 | 268,056 | 6,424 |
| 1977 | 50,355 | 433,600 | 9,853 |
| 1978 | 58,787 | 550,864 | 12,372 |
| 1979 | 59,141 | 699,234 | 16,119 |
| 1980 | 71,958 | 862,817 | 24,569 |
| 1981 | 94,645 | 1,198,764 | 40,280 |
| 1982 | 104,430 | 1,546,322 | 61,062 |
| 1983 | 105,449 | 1,550,462 | 56,667 |
| 1984 | 104,150 | 1,401,488 | 57,797 |
| 1985 | 162,189 | 2,374,138 | 104,597 |
| 1986 | 163,900 | 2,321,430 | 101,145 |

NOTE: The data in this table are used in Figures A-5, A-6 and A-7.

SOURCE: U.S. Department of the Interior, Geological Survey, Federal and Indian Lands Coal, Phosphate, Potash, Sodium, and other Mineral Production, Royalty Income, and Related Statistics, June 1981, for data for FY 1973-1975. Data for succeeding Fiscal Years is unpublished and is from Minerals Management Service, Royalty Management Office. 1986 estimated in part.

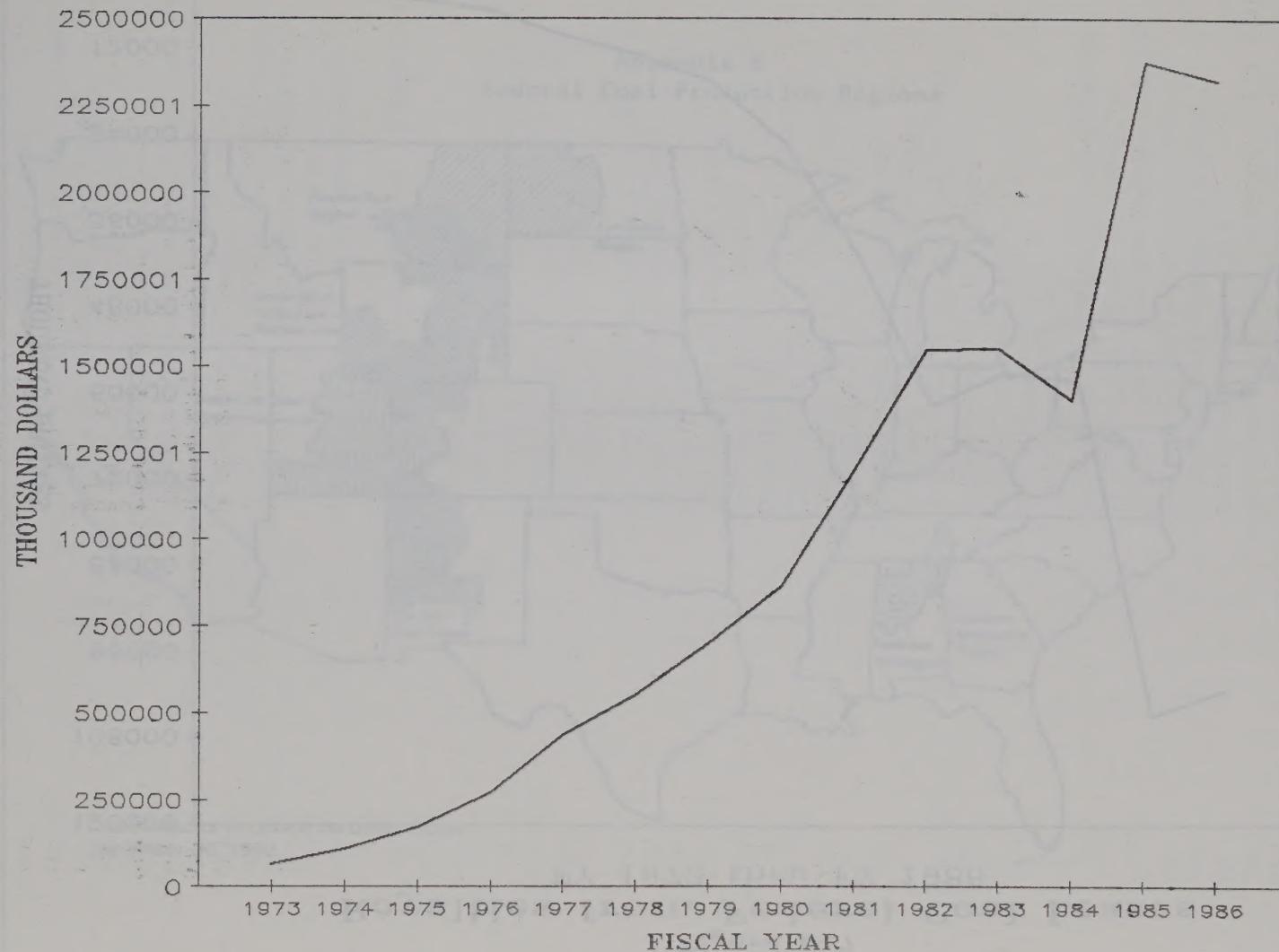
Figure A-5
Production from Federal Coal Leases
FY 1973 thru FY 1986



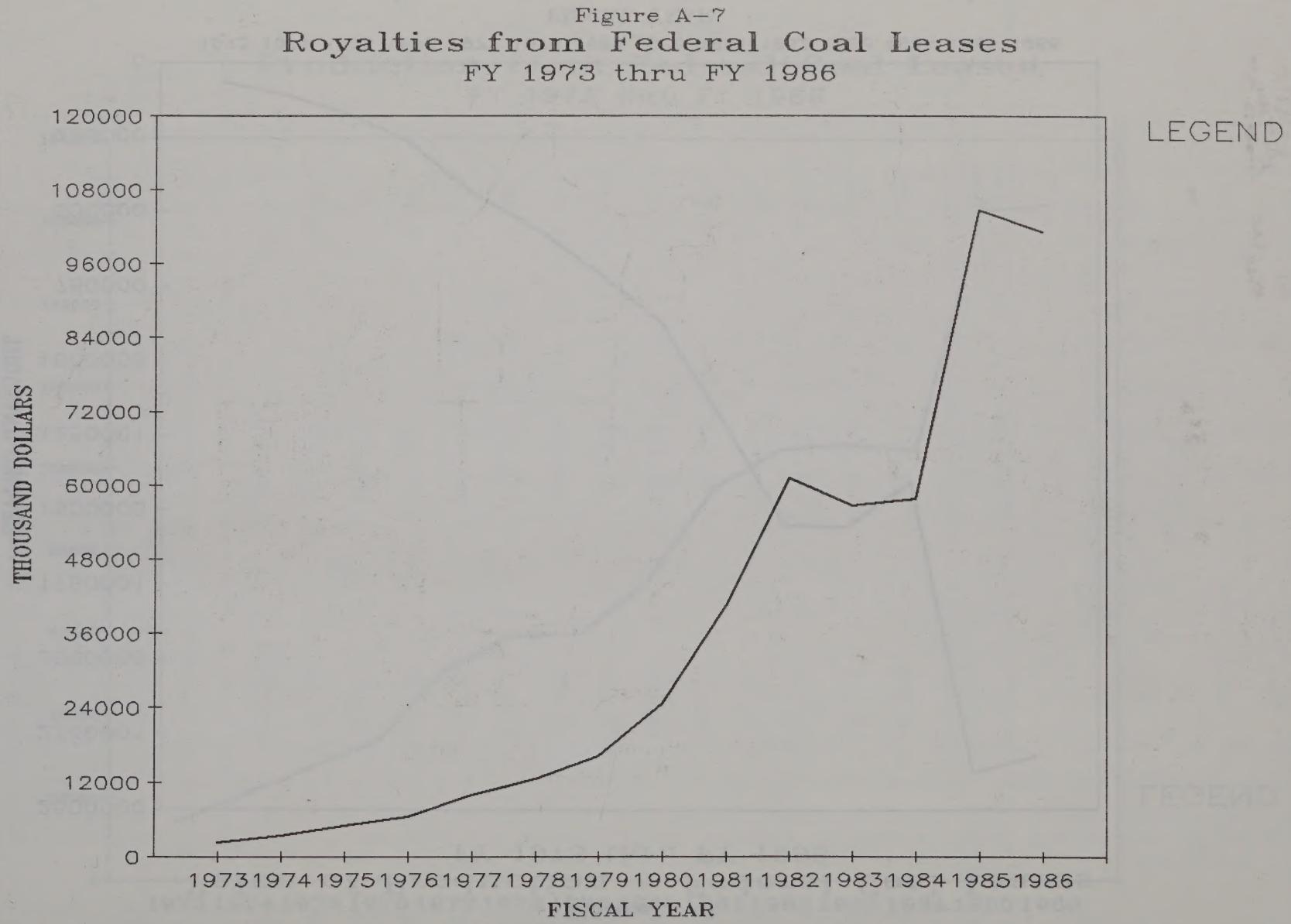
Source: Minerals Management Service, Royalty Management Office, Dec. 1986

Figure A-6

Value of Production - Federal Coal Leases
FY 1973 thru FY 1986

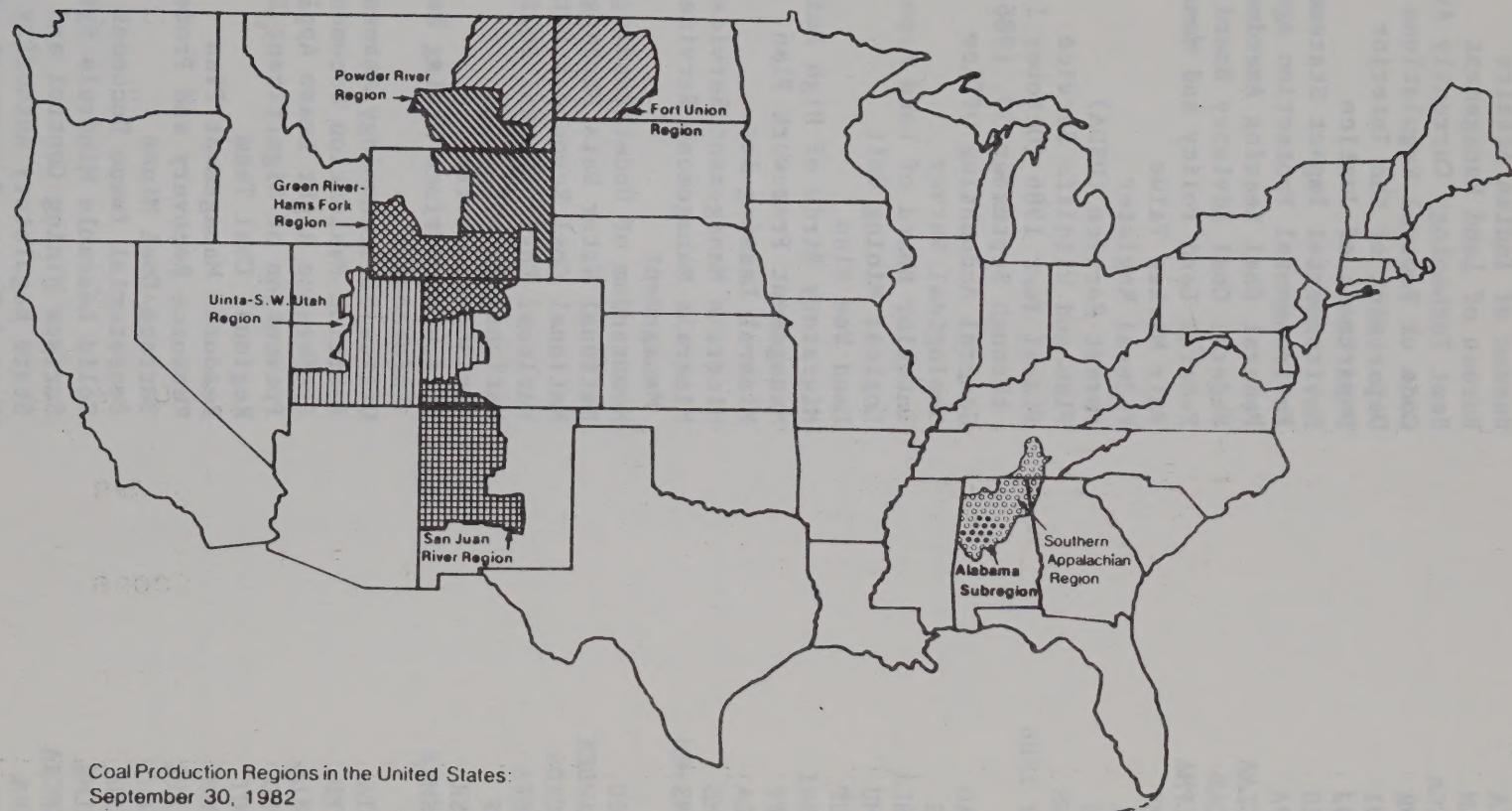


SOURCE: Minerals Management Service, Royalty Management Office, Dec. 1986



Source: Minerals Management Service, Royalty Management Office, Dec. 1986

Appendix B
Federal Coal Production Regions



Coal Production Regions in the United States:
September 30, 1982

GLOSSARY

| | |
|---------|--|
| AML | Abandoned Mine Land |
| AVL | Alluvial Valley Floor |
| BIA | Bureau of Indian Affairs |
| BLM | Bureau of Land Management |
| BTCA | Best Technology Currently Available |
| CFR | Code of Federal Regulations |
| DOI | Department of the Interior |
| DOJ | Department of Justice |
| EIS | Environmental Impact Statement |
| EPA | Environmental Protection Agency |
| FCLAA | Federal Coal Leasing Amendments Act |
| FCAB | Federal Coal Advisory Board |
| FLPMA | Federal Land Policy and Management Act |
| FMV | Fair Market Value |
| FR | Federal Register |
| FS | Forest Service (USDA) |
| FWS | Fish and Wildlife Service |
| FY 1986 | Fiscal Year 1986 (October 1, 1985 through September 30, 1986) |
| GAO | General Accounting Office |
| GS | Geological Survey |
| IBLA | Interior Board of Land Appeals |
| LMU | Logical Mining Unit |
| LUP | Land Use Plan |
| MBHI | Migratory Birds of High Federal Interest |
| MFP | Management Framework Plan |
| MLA | Mineral Leasing Act |
| MMS | Minerals Management Service |
| MMS-RM | Minerals Management Service-Royalty Management |
| MOU | Memorandum of Understanding |
| NAWDEX | National Water Data Exchange System |
| NCRDS | National Coal Resources Data System |
| NEPA | National Environmental Policy Act |
| NF | National Forest |
| NSR | New Source Review |
| OSMRE | Office of Surface Mining Reclamation and Enforcement |
| OTA | Office of Technology Assessment |
| PED | Petition Evaluation Document |
| PRLA | Preference Right Lease Application |
| PSD | Prevention of Significant Deterioration |
| RCT | Regional Coal Team |
| RMP | Resource Management Plan |
| R2P2 | Resource Recovery and Protection Plan |
| SCM | Surface Coal Mines |
| SID | Secretarial Issue Document |
| SLMS | Solid Leasable Minerals System |
| SMCRA | Surface Mining Control and Reclamation Act |
| SRA | State Regulatory Authority |
| USDA | United States Department of Agriculture |

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